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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA 18-CR-6094(G)

vs.
XAVIER TORRES, Rochester, New York
Defendant. October 21, 2021
8:30 a.m.
- - - - -X

VOLUME 3

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE FRANK P. GERACI, JR.
UNITED STATES DISTRICT JUDGE

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I N D E X

WITNESS FOR THE GOVERNMENT

Roberto Figueroa

Direct examination by Mr. Marangola

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EXHIBIT

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P R O C E E D I N G S

* * *

(WHEREUPON, the defendant is present).

THE COURT: Good morning.

MR. MARANGOLA: Good morning, Your Honor.

MS. KOCHER: Good morning.

MR. VERRILLO: Good morning, Judge.

MR. MARANGOLA Judge, before the jury comes in Investigator Briganti -- I advised him he finished up his testimony yesterday. I advised him that there was an interview -- if you recall, he interviewed the defendant with some other officers late in the case in April of 2017. I didn't -- I can address it later.

(WHEREUPON, the jury is present).

THE COURT: Good morning, ladies and gentlemen.

Mr. Marangola, do you want a sidebar?

(WHEREUPON, a discussion was held at side bar out of the hearing of the jury.)

MR. MARANGOLA: Yes, thank you. I wanted to mention to the Court Investigator Briganti interviewed the defendant in April of 2017. We had had some previous argument about that meeting based on defense counsel's motion. I did not enter that testimony in Investigator Briganti's initial because in the case it was -- he testified about search warrants in the beginning of the case and this was a totally

1 separate event in April of 2017.

2 He asked me today -- I don't know if I will recall
3 him for that purpose or we'll just leave it, but I just wanted
4 to let the Court know he asked if he could sit in during the
5 other portions of the testimony of the witnesses. And my view
6 was that he should be able to because none of that is going to
7 be related to potential recall testimony regarding the April
8 of 2017 interview. I just wanted to advise the Court of that.

9 **THE COURT:** Okay. Is he a designated case agent?

10 **MR. MARANGOLA:** Yes, he is.

11 **THE COURT:** That would allow him to remain in.

12 **MR. MARANGOLA:** Right. That's why I wanted to bring
13 it to the Court's attention. Thank you.

14 **MR. VERRILLO:** Judge, the Government hadn't asked
15 him about the interview, so -- I mean, they asked him
16 questions, but are they going to be allowed to recall him or
17 has that been waived by him?

18 **THE COURT:** Do you intend to recall him?

19 **MR. MARANGOLA:** I haven't made that decision yet,
20 Judge.

21 **THE COURT:** Let's wait and see. If he makes the
22 decision, I'll entertain your objection.

23 **MR. VERRILLO:** Okay.

24 **MR. MARANGOLA:** Thank you.

25 **THE COURT:** Thank you.

1 (WHEREUPON, side bar discussion concluded.)

2 THE COURT: We're ready to proceed, call your next
3 witness.

4 MR. MARANGOLA: Thank you. Your Honor, the
5 Government calls Roberto Figueroa.

6 GOVERNMENT'S WITNESS, ROBERTO FIGUEROA, SWORN

7 DIRECT EXAMINATION

8 THE CLERK: Please state your name and spell your
9 last name for the record.

10 THE WITNESS: Roberto Figueroa, F-I-G-U-E-R-O-A.

11 THE REPORTER: Thank you.

12 THE COURT: Mr. Figueroa, you may remove your mask
13 while you're testifying behind the plexiglas. Thank you. You
14 may proceed.

15 MR. MARANGOLA: Thank you, Your Honor.

16 BY MR. MARANGOLA:

17 Q. Good morning. Would you please introduce yourself to the
18 jury?

19 A. Yes, my name is Roberto Figueroa.

20 Q. And, Mr. Figueroa, if you could speak as fast as you
21 can -- it will help Ms. Macri here take down your words, okay?

22 A. Okay.

23 Q. I was kidding. All right?

24 THE COURT: Don't get her angry.

25 BY MR. MARANGOLA:

1 Q. Mr. Figueroa, are you nervous?

2 A. Yes.

3 Q. All right. Can you tell the jury do you speak English and
4 Spanish?

5 A. Yes.

6 Q. All right. Were you arrested and charged in connection
7 with a federal narcotics conspiracy in which Carlos Javier
8 Figueroa, also known as Javi, and numerous others are charged?

9 A. Yes.

10 Q. When were you arrested?

11 A. I was arrested January 29, 2018.

12 Q. And where were you arrested?

13 A. I was arrested in 292 Barrington Street.

14 Q. And that's in the City of Rochester, Monroe County?

15 A. Yes.

16 Q. Were you inside that residence at the time of your arrest?

17 A. Yes.

18 Q. And is that where you were living?

19 A. Yes.

20 Q. Was the house searched on the day of your arrest?

21 A. Yes.

22 Q. And did law enforcement seize guns and drugs and money
23 from that residence?

24 A. Yes.

25 Q. All right. Did you agree to plead guilty and cooperate in

1 connection with the federal charges?

2 A. Yes.

3 Q. I'd like you to look at the witness binder in front of
4 you. It should be open to Exhibit No. 342. Do you see it
5 there?

6 A. Yes.

7 Q. All right. I'd like you to flip through Exhibit 342.
8 That's a multi-page document; is that right?

9 A. Yes.

10 Q. Do you recognize what Government's Exhibit 342 is?

11 A. Yes.

12 Q. Can you tell the jury what is Government's Exhibit 342?

13 A. It's a plea agreement.

14 Q. All right. Is that your plea agreement?

15 A. Yes.

16 Q. Can you flip to the last page?

17 A. I'm there.

18 Q. Are you on the last page?

19 A. Yes.

20 Q. Does that page contain your signature?

21 A. I don't see my signature here.

22 Q. If you go to the last page of document -- of Exhibit 342.
23 Maybe it's easier if we pull it up on the screen for you. Do
24 you see the screen next to you, Mr. Figueroa? Look at the
25 screen and we'll see if we can pull it up there for you, okay?

1 A. Yes.

2 Q. All right. Do you see on the screen next to you there it's
3 got now the last page of Government's Exhibit 342?

4 **THE COURT:** Nothing is displayed.

5 **THE WITNESS:** It's showing nothing.

6 **MR. MARANGOLA:** Ms. Rand, could you -- it's not in
7 evidence.

8 **THE CLERK:** I got it.

9 **THE COURT:** There it is.

10 **MR. MARANGOLA:** Thank you.

11 **BY MR. MARANGOLA:**

12 Q. Is it on your screen now, Mr. Figueroa?

13 A. Yes.

14 Q. Is that the last page of your plea agreement there?

15 A. Yes.

16 Q. And that contains your signature; is that right?

17 A. Yes.

18 Q. As well as the signature of your attorney Mr. Ganguly?

19 A. Yes.

20 Q. All right. Is that the plea agreement that you entered
21 into with the Government?

22 A. Yes.

23 Q. And in that plea agreement did you agree to cooperate with
24 the Government?

25 A. Yes.

1 Q. And are you testifying here today pursuant to that
2 agreement to cooperate that's contained within Government's
3 Exhibit 342?

4 A. Yes.

5 Q. All right. And have you been sentenced?

6 A. No.

7 Q. All right. Would you mind telling the jury how old are
8 you?

9 A. I'm 46 years old.

10 Q. And where were you born and raised?

11 A. I was born in Brooklyn, New York and they took me to
12 Brooklyn. When I was two years old, I was raised in
13 Puerto Rico.

14 Q. You were born in Brooklyn, New York and what?

15 A. And I went to Puerto Rico when I was two years old.

16 Q. You went to Puerto Rico when you were two years old?

17 A. Yes.

18 Q. How long did you stay in Puerto Rico?

19 A. Until I was like 17.

20 Q. Until you were how old?

21 A. Until I was 17.

22 Q. 17. So you were raised in Puerto Rico from 2 until about
23 17?

24 A. Yes.

25 Q. Do you have any siblings, Mr. Figueroa?

1 A. Yes.

2 Q. How many siblings do you have?

3 A. I got three.

4 Q. What do you have, brothers or sisters?

5 A. I got three brothers.

6 Q. What are their names?

7 A. Carlos Javier Figueroa, Felix Figueroa, and Jeral.

8 Q. Can you spell the last name of the last brother that you
9 mentioned?

10 A. J-E-R-A-L.

11 Q. J-E-R-A-L?

12 A. Yes.

13 Q. Okay. Mr. Figueroa, I'm going to show you what's in
14 evidence as Government's Exhibit 1. Are any of your brothers
15 shown in Government's Exhibit 1?

16 A. Yes.

17 Q. Which brother?

18 A. Do you want me to --

19 Q. Sure, you can touch the screen and I think it's making a
20 mark today, yes. All right, you made a mark at the photo at
21 the top of Government's Exhibit 1?

22 A. Yes.

23 Q. And who is that?

24 A. That's my brother Carlos, Javi.

25 Q. You said that's your brother Carlos?

1 A. Yeah.

2 Q. Then Javi?

3 A. Yes, a/k/a Javi, yeah.

4 Q. All right. Mr. Figueroa, are you married?

5 A. No.

6 Q. Do you have any children?

7 A. Yes.

8 Q. How many children do you have?

9 A. I got one daughter.

10 Q. One daughter?

11 A. Yes.

12 Q. How old is she?

13 A. Four years old.

14 Q. Can you tell the jury how far did you get in school?

15 A. GED.

16 Q. You got a GED?

17 A. Yes.

18 Q. When did you -- how far in your schooling? Did you go
19 before?

20 A. 7th grade.

21 Q. 7th grade?

22 A. In Puerto Rico, yeah.

23 Q. You dropped out in 7th grade in Puerto Rico?

24 A. Yes.

25 Q. And after you came -- where did you come to the United

1 States, the Continental United States when you were about 17?

2 Where did you come?

3 A. I went to Patterson, New Jersey.

4 Q. All right. And have you been in the United States, the
5 Continental United States ever since then?

6 A. Yes.

7 Q. What language did you speak when you were first growing up
8 in Puerto Rico?

9 A. Mostly Spanish, but English is our second language.

10 Q. English is what?

11 A. Our second language.

12 Q. You speak both English and Spanish; is that right?

13 A. Yes.

14 Q. Can you read both English and Spanish?

15 A. Yes.

16 Q. Okay. Why was it that you came to the United States when
17 you were about 17?

18 A. My mother send me over here. I was giving her a headache,
19 so she send me over here with a friend.

20 Q. She sent you to the Continental United States because you
21 were giving her a headache?

22 A. Yes.

23 Q. And where did you go?

24 A. I went to Patterson, New Jersey with one of her friends.

25 Q. You stayed in Patterson, New Jersey with a friend of your

1 mother's?

2 A. Yes.

3 Q. Did you enroll in school?

4 A. No.

5 Q. Did you end up getting in trouble in Patterson,
6 New Jersey?

7 A. Yes.

8 Q. Did you end up going to prison in New Jersey for a felony
9 conviction?

10 A. Yes.

11 Q. And what was the conviction?

12 A. Manslaughter.

13 Q. Can you tell the jury what happened?

14 A. Yes. Me and my friend we was going toward the middle of
15 the park, like a baseball field in the park, and four
16 individuals was trying to rob us and we got into a fight with
17 them and I took one of the knife from the person and I stab
18 him twice.

19 Q. And the person that you stabbed ended up dying?

20 A. Yeah, he died in the hospital.

21 Q. Did you go to trial or did you plead guilty?

22 A. I plead guilty.

23 Q. And tell the jury what were you sentenced to?

24 A. My sentence was 30 with a 12 stip.

25 Q. Can you explain to the jury what 30 with a 12 stip means?

1 A. I got to do 12 years first before I seek parole and they
2 can hold me up to 30 years.

3 Q. All right. And did you end up serving more than 12 years
4 in prison?

5 A. Yes.

6 Q. How much did you end up serving?

7 A. Like 21 years.

8 Q. When were you released from prison in New Jersey?

9 A. I was released in 2013.

10 Q. How old were you when you were released?

11 A. 37.

12 Q. Where did you go when you were released from prison in
13 New Jersey?

14 A. I came to Rochester, New York.

15 Q. Why did you come to Rochester, New York from prison?

16 A. Because my mother and my brothers they were here.

17 Q. Your mother and what brothers lived over here in
18 Rochester?

19 A. Javi, Junior, Jeral, all my half brothers and sisters all
20 live over here in Rochester.

21 Q. All right. And were you in Rochester ever since until the
22 time you were arrested?

23 A. Yes.

24 Q. So from 2013 until your arrest in January of 2018?

25 A. Yes.

1 Q. You lived in Rochester?

2 A. Yes.

3 Q. All right. When you came here in 2013 in Rochester where
4 did your mother and your brother Javi live?

5 A. My mother was living in 699 East Main. And Javi was
6 living Burbank, 6 Burbank.

7 Q. All right. If we could show you what's in evidence as
8 Government's 53. Do you recognize what's shown in
9 Government's Exhibit 53, Mr. Figueroa?

10 A. Yes.

11 Q. What is that?

12 A. That's 699.

13 Q. And is that the building that your mother was living in
14 when you first moved to Rochester?

15 A. Yes.

16 Q. In an apartment in that building?

17 A. Yes.

18 Q. All right. And if we could show you Government's Exhibit
19 36 in evidence. You recognize what's shown in Government's
20 Exhibit 36?

21 A. Yes.

22 Q. What is that?

23 A. That's 6 Burbank.

24 Q. And who was living there at the time you came to Rochester
25 in 2013?

1 A. My brother Javi.

2 Q. All right. When you came to Rochester in 2013 where did
3 you first live?

4 A. I was living with my mother.

5 Q. At 699 East Main?

6 A. 699, yes.

7 Q. And how long did you stay there?

8 A. A few weeks.

9 Q. Then where did you move?

10 A. I move with a girl I met. My brother Junior introduced me
11 to his sister-in-law.

12 Q. All right. And did you stay in the same place over the
13 next five years or did you move to different locations while
14 you stayed in Rochester?

15 A. I moved to different location when I was living in
16 Rochester.

17 Q. Were they all in the City of Rochester?

18 A. Yes.

19 Q. Can you tell us some of the locations you lived between
20 2013 and 2018?

21 A. I was living in Liberty Pole.

22 Q. If we could show you Government's Exhibit 51. Do you
23 recognize what's shown in Government's 51?

24 A. Yes.

25 Q. What is that?

1 A. That's Liberty Pole.

2 Q. That's Liberty Pole Way in the City of Rochester?

3 A. Yes.

4 Q. Did you live in an apartment in that building for a period
5 of time?

6 A. Yes.

7 Q. All right. Where else did you stay?

8 A. I stay in Burbank -- on Burbank my brother house at one
9 time too.

10 Q. At the house we just observed 6 Burbank?

11 A. Yes.

12 Q. How long a period of time did you stay there?

13 A. I stayed there for a few months.

14 Q. A few months?

15 A. Yes.

16 Q. All right. Do you recall when that was?

17 A. I can't remember.

18 Q. Pardon?

19 A. I can't remember. I don't remember.

20 Q. You don't remember?

21 A. No.

22 Q. Where else did you stay?

23 A. I stayed by the General Hospital apartment.

24 Q. By the General Hospital apartment?

25 A. Yes.

1 Q. If we could show you Government's Exhibit 106 in evidence.
2 I'm sorry, Government's Exhibit 59 in evidence. Do you
3 recognize that?

4 A. Yes.

5 Q. What is that?

6 A. That's the apartment by the General Hospital.

7 Q. And when you say the General Hospital, you're referring to
8 Rochester General Hospital?

9 A. Yes.

10 Q. Where is this apartment in relation to that hospital?

11 A. Right in front of it, right next to it.

12 Q. And you lived in an apartment in this building for a
13 period of time?

14 A. Yes.

15 Q. Where else did you stay?

16 A. I stayed 59 Fernwood.

17 Q. And at this time I'd like to show you Government's Exhibit
18 38 in evidence. You recognize Government's Exhibit 38?

19 A. Yes.

20 Q. What do you recognize in that photograph?

21 A. That's my brother house I used to stay at, 59 Fernwood.

22 Q. The house in the center of the photograph?

23 A. Yes.

24 Q. When you say your brother's house, whose house are you
25 referring to?

1 A. My brother Javi.

2 Q. Javi owned that house?

3 A. Yes.

4 Q. And where was the last place you were living at the time
5 you were arrested?

6 A. 292 Barrington.

7 Q. All right. And if we can show you Government's 37. You
8 recognize what's shown in that photograph?

9 A. Yes.

10 Q. What's shown in that photograph?

11 A. That's 292 Barrington.

12 Q. Were you living in the left or the right side of that
13 house at the time of your arrest?

14 A. The left side.

15 Q. All right. What did you do for a living when you first
16 moved to Rochester?

17 A. I was doing factory work.

18 Q. Factory work?

19 A. Yes.

20 Q. What factories were you working in?

21 A. I first working in Nordon making guns, working in the gun
22 factory. Because they got two factory, I was working on
23 Lexington and one by the west side. Then I was doing
24 construction work with my brother on his houses. And I was
25 working at LiDestri.

1 Q. At LiDestri?

2 A. Yes.

3 Q. What were you doing at LiDestri?

4 A. Making sauce.

5 Q. All right. Did there come a time after moving to Rochester
6 that you became involved in the drug business?

7 A. Yes.

8 Q. When was that approximately?

9 A. A few months after I got out.

10 Q. So that would be in 2013?

11 A. Yes.

12 Q. Who did you work for in the drug business?

13 A. For my brother Javi.

14 Q. How long did you work for your brother Javi in the drug
15 business?

16 A. I was working for my brother since 2013 until I got
17 arrested.

18 Q. Until you got arrested in January 2018?

19 A. Yes.

20 Q. That whole time?

21 A. Yes.

22 Q. Was working for Javi your only source of income between
23 2013 and 2018?

24 A. No.

25 Q. What was your other sources of income?

1 A. I was working -- I was still working, I was still
2 employed.

3 Q. You still were working during that time period?

4 A. Yes, I was working at LiDestri, yes.

5 Q. At LiDestri?

6 A. Yes.

7 Q. So in addition to working in the drug business with your
8 brother you were also working in the factory?

9 A. Yes.

10 Q. All right, were you the only person working for your
11 brother in the drug business between 2013 and 2018?

12 A. No.

13 Q. Was there more than -- besides you, was there more than
14 one person?

15 A. Yes.

16 Q. How many people would you say?

17 A. There was a lot of people.

18 Q. All right. Based on your participation in working for Javi
19 between 2013 and your arrest in January of 2018, were you
20 familiar with how Javi's drug operation worked?

21 A. Yes.

22 Q. And what drugs did Javi's operation sell?

23 A. Sell heroin, cocaine and crack.

24 Q. Can you explain generally how the operation worked?

25 A. The whole operation?

1 Q. Sure.

2 A. My brother got a connect in Puerto Rico, his name was
3 Pablo, and he gave the kilos to this guy name Freddie Silva,
4 and he packaged -- he packaged -- he packaged the kilos up, he
5 wrap them up in carbon paper and he put the kilos inside the
6 Skittle boxes, M&M boxes and seal them up and put them inside
7 big box filled with candy and boxes get sent to Rochester to
8 different address.

9 Then after -- before they get to the addresses, the
10 addresses he gave to the guy in Puerto Rico, and the people
11 who receive the box, my brother called them, let them know the
12 packages is coming so they can pay attention. When the
13 package come, then they call my brother to let him know they
14 arrive.

15 Then I go with my brother or I go with Lei, with
16 Leitscha, and we get the packages, we take them to 292
17 Barrington. My brother is the boss, so he is the one that got
18 to open the box to see how everything is all right.

19 So he unwrap the kilos. And after he take all the
20 plastic out and all that stuff, he put it on the scale, make
21 sure everything is correct. Some of the -- some of the kilos
22 gets sold whole, that he got friends, customers his own he
23 sell them from range 28,000 to 30,000 he sell the whole kilo;
24 some of the kilo get break down to 62s and 31s, and the 62s
25 and 31 get broken into smaller quantity, which my brother

1 selling on his blocks, the houses on the block.

2 That he got a runner, he got people --

3 **MR. VERRILLO:** Objection. Narrative.

4 **THE COURT:** Overruled. Go ahead. You may continue.

5 **BY MR. MARANGOLA:**

6 Q. You can continue with the description. What happened to
7 the cocaine that's sold at the houses on the block.

8 A. Yes. And some of the 62s and 31s they got stored in the
9 Home Depot bucket at 292 Barrington. We put them there; some
10 get taken to other places to get bagged up. We bag it up
11 there or we bag it up someplace else.

12 And my brother also is in charge of getting some
13 phones -- send Leitscha to get some phones, to hand the phones
14 out.

15 And he collect the money. Somebody from
16 New York City come to Rochester to Barrington to give him the
17 money to pay the connect in Puerto Rico. And we all work for
18 him.

19 Q. All right. Can you describe -- you said some of the kilos
20 were -- would be sold as kilograms for between 28 and \$30,000;
21 is that right?

22 A. Yes.

23 Q. And some were broken down into 62 gram or 31 gram
24 quantities; is that right?

25 A. Yes.

1 Q. And then what did you say some -- what happened to some of
2 the cocaine that was broken down into smaller quantities than
3 the 31s or 62s? What happened to that cocaine?

4 A. What? I don't understand.

5 Q. The quantities that were smaller than the 31s or 62s.

6 A. So the 62 my brother put it in a blender and he put some
7 other stuff in it, he grind it and he put it on the table and
8 we bag it up and we send that to his blocks.

9 Q. What do you mean by send it to his blocks?

10 A. To the street where he got the house with the drugs sell
11 from.

12 Q. And what was the street or streets that he had blocks that
13 would sell drugs in drug houses?

14 A. Burbank, LaForce, Conkey, Remington.

15 Q. All right. And are you familiar with how those smaller
16 quantities of cocaine were sold in those houses on those
17 streets?

18 A. Yes.

19 Q. Can you describe that portion of the operation for the
20 jury?

21 A. Yes, my brother have a runner where he trust. Basically
22 he's the one that be running the block. And he got some
23 people inside the house selling; and you got the lookouts.
24 Some of them is fiends. They got both sides of the street and
25 they directing traffic, telling where the house at so they can

1 sell the coke and the heroin. They go to the side door of the
2 houses or the front and that's how he does.

3 The runner get the money after they finish, they
4 almost done, they get the money, they made a phone call to my
5 brother, me or I go with Lei and we up the runner or the
6 runner go to my brother and get some more dope and that
7 continue.

8 Q. All right. And you said -- I think you used the term
9 "fiend" with respect to lookouts?

10 A. Yes.

11 Q. When you say "fiend," what are you talking about?

12 A. Talking about drug users.

13 Q. Okay.

14 A. They be looking out, they look out so the police don't
15 come and stuff like that. And they get paid some dope for
16 doing that. They watching for them and that's how they get
17 paid.

18 Q. They would be lookouts. You testified there would also be
19 people selling in the house?

20 A. Yes.

21 Q. There would be a runner?

22 A. Yes.

23 Q. And then there would be somebody that would give the
24 runner additional quantities of drugs?

25 A. Yes.

1 Q. All right. Based on your participation in Javi's drug
2 business between 2013 and your arrest in 2018, were you
3 familiar with the other people who were part of the operation?

4 A. Yes.

5 Q. Do you see any of them in court here today?

6 **MR. VERRILLO:** Objection.

7 **THE COURT:** Overruled. You can answer.

8 **THE WITNESS:** Yes.

9 **BY MR. MARANGOLA:**

10 Q. Would you point to who you see in court here today who is
11 part of Javi's operation and describe what they're wearing for
12 the record?

13 A. I see Pistolita with a blue shirt sitting next to the
14 lawyer.

15 **MR. MARANGOLA:** Your Honor, may the record reflect
16 Mr. Figueroa's identification of the defendant Xavier Torres.

17 **THE COURT:** Yes, the record will note the
18 identification of the defendant Xavier Torres.

19 **BY MR. MARANGOLA:**

20 Q. All right. If we can show you Government's Exhibit 1. And
21 before we start going through these individuals, Mr. Figueroa,
22 you said that -- you identified the defendant as Pistolita,
23 you said he was part of this operation; is that correct?

24 A. Yes.

25 Q. Can you describe just briefly what his role or involvement

1 in Javi's operation was?

2 A. He was -- he move to 6 Burbank, he was a runner for my
3 brother; runner, muscle. And he was running the block and the
4 houses; and he also used to sit with us and bag up some dope
5 and cocaine. And he kill.

6 **MR. VERRILLO:** Objection, lack of foundation.

7 **THE COURT:** The last part will be stricken, the last
8 three words right now without some follow-up.

9 **MR. MARANGOLA:** I'll ask some additional questions,
10 Judge, with respect to that.

11 **BY MR. MARANGOLA:**

12 Q. Mr. Figueroa, do you see Government's Exhibit 1 on your
13 screen here?

14 A. I see what --

15 Q. Do you see Government's Exhibit 1, is that on your screen?

16 A. Yes.

17 Q. All right. Do you recognize any of the individuals in
18 Government's Exhibit 1?

19 A. Yeah, I recognize all of them.

20 Q. You recognize all them?

21 A. Yes.

22 Q. How do you recognize all those individuals? From where do
23 you recognize them?

24 A. From us dealing drugs, working the table;0 and we all work
25 for my brother, we all sell drugs for my brother.

1 Q. Are all of the individuals shown in Government's Exhibit 1
2 individuals who worked as part of your brother's drug
3 operation while you were working as a member of it between
4 2013 and 2018?

5 A. Yes.

6 Q. Are there people that worked for your brother's operation
7 that are not shown in this exhibit Government's Exhibit 1?

8 A. Yes.

9 Q. All right. Starting -- are you familiar with each of the
10 individuals shown in this exhibit?

11 A. Yes.

12 Q. And their roles in Javi's operation?

13 A. Yes.

14 Q. And is that based on your personal participation in this
15 operation?

16 A. Yes.

17 Q. All right. We can start at the top and if you can identify
18 each of the individuals in Government's Exhibit 1 and any name
19 or nickname that you knew them by as well as tell the jury
20 what their role was in this drug operation.

21 A. The first one, that's my brother Javi. That's Carlos.
22 His real name Carlos Javier Figueroa, that's my brother Javi.
23 He go by Javi, Matatan, Viejo, and Hulk sometime. And he's
24 the boss, he's the boss of the organization.

25 And we all work for him. Like I explain earlier,

1 he's the one that get the drugs from Puerto Rico.

2 Q. All right. Let's go to the next row.

3 A. One on the bottom, that's Leitscha. That was my brother's
4 mistress. She used to live with me at 292 Barrington. She go
5 by a/k/a Lei, Lei Lei, La Flaca.

6 She was in charge of getting the phones, buying the
7 phones, passing the phones out, she was in charge of taking
8 notes in a note pad all the money going in or money that come
9 out, who getting dope, who is not.

10 She also served as a runner. I used to go with her
11 and take drugs to the block. We also used to go and pick up
12 packages. She also was in charge of renting the houses. So
13 we turn houses into drug houses.

14 And she used to talk to the people from Puerto Rico
15 so she can get a track -- number to track the packages and the
16 people that receive the packages.

17 My brother used to give her the money so she can
18 pay the people to pick up the packages; a thousand, \$2,000
19 they was getting paid for receiving the packages.

20 Q. All right.

21 A. She also work at the table. She bag up at the table with
22 us.

23 Q. Okay. And who is next to Leitscha?

24 A. That's me.

25 Q. All right. And what did they call you?

1 A. Leitscha call me Princesa.

2 Q. Leitscha called you Princesa?

3 A. Princess.

4 Q. Why did she call you princess?

5 A. That's what she call me.

6 Q. All right. Any other nicknames that you went by that
7 folks referred to you as?

8 A. Yes. She call me Hulk, Maui.

9 Q. Maui?

10 A. Yes.

11 Q. Why did they call you Maui?

12 A. That's what she call me. Character from a Disney movie.

13 Q. Character from a Disney movie?

14 A. Yes.

15 Q. Do you know what movie? All right. What was your role in
16 Javi's drug operation?

17 A. I was packaging dope with my brother, and coke; I was
18 taking drugs to the blocks to the runner; I used to go with
19 Lei, I used to pick packages up and take it to 292 Barrington;
20 and I used to sell half kilos, 62s and 31 to some of the
21 customers of my brother's organization.

22 Q. You said you would take money to the block with Lei or
23 drugs to the block with Lei; is that right?

24 A. Yes.

25 Q. Why would you go with Lei?

1 A. Because I used to serve as protection for her.

2 Q. Protection?

3 A. Yes.

4 Q. All right. Let's go to the third row. Starting on the
5 left, who is that?

6 A. That's Obed.

7 Q. And did he have any nicknames?

8 A. Yes.

9 Q. What did he go by?

10 A. He go by nickname Nene.

11 Q. Nene?

12 A. Yes.

13 Q. All right.

14 A. My brother love him like a son. He used to live with me
15 on the west side when he was -- when he -- when he was
16 younger. When he turn 18 my brother took him with him and
17 start working with my brother and he used to sell out of the
18 houses on LaForce and Burbank and he package up dope. And he
19 was involved in a homicide on Leo Street for my brother.

20 Q. All right. Who is next to Obed?

21 A. That's Obed's best friend, that's Axel.

22 Q. If you can touch the screen so we know which one you're
23 talking about? Okay.

24 A. That's Axel.

25 Q. Was Axel involved in this operation?

1 A. Yes.

2 Q. Can you tell the jury what Axel's involvement was?

3 A. He used to sell out of LaForce and Burbank out of the
4 houses my brother had with Obed. And he used to work at the
5 table a few times. And he's the one that stole some stuff
6 from my brother and he shot Obed.

7 Q. Axel shot Obed?

8 A. Yeah, in 2016.

9 Q. All right. Who is next to Axel?

10 A. That's Vic.

11 Q. Was he involved in Javi's drug operation?

12 A. Yes.

13 Q. What did -- did he have any other -- did he go by any
14 nicknames that you remember?

15 A. Yeah, Tuco.

16 Q. Tuco?

17 A. Yeah.

18 Q. That's a Spanish word?

19 A. That's a Spanish word, somebody missing a finger.

20 Q. It's a Spanish word for what?

21 A. For he missing a finger.

22 Q. Victor is missing fingers?

23 A. Yes.

24 Q. What was his involvement in Javi's operation?

25 A. He was -- he was -- that's Pistolita right-hand man. They

1 came from Buffalo. And he used to sell drugs on Burbank and
2 he used to work at the tables with us. He used to be a
3 runner, sell out of the houses and he also commit a homicide.

4 **MR. VERRILLO:** Objection, lack of foundation.

5 **THE COURT:** Overruled. Answer will stand. Go
6 ahead.

7 **BY MR. MARANGOLA:**

8 Q. Did you say he was a runner or he was selling in the
9 houses and on the street?

10 A. He was a runner and selling. He was a runner and selling
11 out of the houses too.

12 Q. All right. Is a runner the same thing as somebody that
13 was selling in the houses?

14 A. No, but he was doing it because he didn't like to sit in
15 the table. He find it boring. He like to be in the block.

16 Q. Who is next to Victor in Government's Exhibit 1?

17 A. That's Pistolita.

18 Q. All right. And Pistolita's involvement in your brother's
19 operation was?

20 A. He was --

21 **MR. VERRILLO:** Objection.

22 **THE COURT:** Overruled. Go ahead.

23 **THE WITNESS:** He was a runner. He was living at 6
24 Burbank. He was going to Burbank, used to sell drugs out of
25 the houses, provided them with the drugs. He used to take --

1 we used to deliver to him and he used to work at the table.

2 And he also with Vic murder some people.

3 **MR. VERRILLO:** Objection, lack of foundation.

4 **THE COURT:** The last part of the answer will be
5 stricken at this time.

6 **BY MR. MARANGOLA:**

7 Q. Who is next to Pistolita?

8 A. That's Yankee.

9 Q. And what was Yankee's involvement in this operation?

10 A. Yankee, he was a runner. He used to work at the table, he
11 used to run Burbank too at one time. And he was the one that
12 told my brother's -- Freddie Silva how to package the kilos to
13 send to Puerto Rico, and my brother used to send Yankee with
14 some money to Puerto Rico; and he was still working for my
15 brother even though he went to Puerto Rico.

16 Q. All right. And who is next to Yankee?

17 A. That's Tapon.

18 Q. Tapon?

19 A. Yes.

20 Q. And what was Tapon's involvement in this operation?

21 A. Tapon was a runner. He would run LaForce at one time; he
22 was running Conkey one time; and he was running Burbank. And
23 he used to do the same thing as a runner does: Take drugs to
24 the block, make sure the people in the house they was running
25 straight, no problems in the block and stuff like that.

1 And he also killed somebody on Burbank because they
2 trying to sell drugs on my brother's block and that was a
3 no-no. He killed a guy.

4 Q. Let's go to the bottom row on the left. Do you know who
5 is the person on the bottom left in the blue?

6 A. Yes.

7 Q. Who is that?

8 A. That's Rafi.

9 Q. Rafi?

10 A. Yes.

11 Q. Was he part of your brother's drug operation?

12 A. Yes.

13 Q. What was Rafi's involvement?

14 A. He was a fiend and my brother say he love him like his
15 father. And he got a flesh eating disease on his legs and he
16 used to -- he was a tester for my brother; he used to test the
17 dope, make sure it was all right so they can sell it. And
18 Rafi was keeping people inside the house on track and sell out
19 of the houses.

20 Q. Rafi used to sell out of the houses too?

21 A. Yes.

22 Q. When you say a "tester," can you describe what you mean by
23 that?

24 A. The whole process or --

25 Q. Sure.

1 A. -- what testing mean?

2 Q. Well, you said Rafi used to test the dope. What dope did
3 Rafi test? What kind of drugs?

4 A. Heroin.

5 Q. All right. Can you tell us what that process was?

6 A. My brother get the heroin, the grams of heroin, he cut it
7 with some -- sometimes used to cut it with horse anesthetics,
8 fentanyl or some pills that he cut it with.

9 And he got to mix it, he's the one that do that
10 stuff. He get a little bit of that dope and he give it to
11 Rafi, Rafi put the fire in the spoon, put the syringe needle
12 and he shoot it up and he let him know if he get high, if it's
13 good or not, like that, you can bag it up in little baggies.

14 They got stamps like the brand, that's your brand,
15 and he put it in the block. And he's good.

16 Q. So Rafi was one of those people that your brother used to
17 test the quality of the heroin after it was mixed?

18 A. Yes.

19 Q. Okay. What happened to Rafi?

20 A. Rafi die in the hospital.

21 Q. All right. Who is next to Rafi in the red T-shirt? Do you
22 know who that is?

23 A. Yes.

24 Q. Who is that?

25 A. That's Paulo.

1 Q. Did he go by any other nicknames?

2 A. Flaco.

3 Q. What other nicknames?

4 A. Flaco, Palito and Paulo.

5 Q. Flaco and Palito or Paulo. Was he part of this operation
6 for a period of time as well?

7 A. Yes.

8 Q. Can you describe his involvement for the jury?

9 A. Yeah, he was -- he used to be a lookout in the blocks, and
10 he sold out of the houses, and he used to be a tester for my
11 brother. And, unfortunately, he got killed when Pistolita --

12 **MR. VERRILLO:** Objection.

13 **THE COURT:** Last part will be stricken. The last
14 word.

15 **BY MR. MARANGOLA:**

16 Q. Mr. Figueroa, you said he was a tester?

17 A. Yes.

18 Q. So he used to test heroin, the quality of heroin that was
19 mixed; is that right?

20 A. Yes.

21 Q. Similar to Rafi?

22 A. Yes.

23 Q. All right. Do you know what his real name was?

24 A. No.

25 Q. All right. Who is next to Paulo in the white T-shirt?

1 A. That's Dino.

2 Q. Was Dino part of this operation as well?

3 A. Yes.

4 Q. Can you describe to the jury what Dino's involvement was?

5 A. He used to sell out of houses and Dino also used to be a
6 tester. He's a drug user, he's a fiend.

7 Q. So Dino used to test again heroin?

8 A. Yes.

9 Q. Was there -- were there testers for the cocaine, too, or
10 were the testers limited to just testing the heroin?

11 A. Sometime they test both, but it was more heroin.

12 Q. More heroin?

13 A. My brother was more concerned about the heroin, testing
14 the heroin.

15 Q. Okay. And who is next to Dino on the bottom right of
16 Government's Exhibit 1?

17 A. That's Cano.

18 Q. And was he involved in this operation for a period of
19 time?

20 A. Yes.

21 Q. And what was his involvement?

22 A. He was selling out of the houses. When Pistolita was a
23 runner on Burbank, the house that he burnt that he -- when
24 they burned down the house, they did a raid, broke the door
25 down --

1 **MR. VERRILLO:** Objection, lack of foundation.

2 **THE COURT:** Overruled. It will stand.

3 **BY MR. MARANGOLA:**

4 Q. All right. And, Mr. Figueroa, you mentioned all these
5 people and their roles in the drug operation, including yours.
6 You indicated that these were not the only people involved in
7 the operation; is that correct?

8 A. Yes.

9 Q. All right. Were the same people involved in the operation
10 the entire time that you were working for Javi?

11 A. No.

12 Q. Can you explain what you mean by that?

13 A. What you mean?

14 Q. Well, I asked you if the same people were working for the
15 entire time and you said no.

16 A. No.

17 Q. So can you explain or give an example of that?

18 A. Yes. Some people got arrested and came back. Some people
19 left and didn't come back. And people was working a period of
20 time. Some people got killed. Some people die. So that why
21 it was different people all the time.

22 Q. So you said some people got arrested and were gone for a
23 period of time?

24 A. Yes.

25 Q. And then might come back and work?

1 A. Yes.

2 Q. Or people just left and never came back?

3 A. Yes.

4 Q. All right. Can you give us an example of any of the
5 members of this operation that got arrested and that returned
6 to working as members of the operation after they were
7 arrested?

8 A. Pistolita got arrested and came back and work. Obed got
9 arrested, came back and work. Yankee got arrested and came
10 back and work. Rafi got arrested, came back and work. Dino
11 got arrested and came back and work.

12 Q. All right. Can you explain to the jury how did you first
13 become involved in Javi's operation?

14 A. That was in 2013. My brother asked me -- I was in my
15 mother's apartment and he took me to the second floor where he
16 used as a stash apartment, it was drugs there. And when I
17 went up there he got some heroin on the table. It was Lei, it
18 was Naldi.

19 Q. Who is Naldi?

20 A. Naldi is my brother's brother-in-law.

21 Q. Your brother's brother-in-law?

22 A. Yes.

23 Q. Okay. So you were at an apartment?

24 A. Yes.

25 Q. And what was the building that you were in?

1 A. 699 East Main.

2 Q. All right. And if we could pull up Government's 53.

3 Mr. Figueroa, on your screen down there if you touch the top
4 right corner, it should push up a menu and at the very bottom
5 left of that menu there's a button, it says "clear."

6 I think, Ms. Rand, you did it or Ms. Rand already
7 did it. Okay.

8 Is this the building that you were in?

9 A. Yes.

10 Q. All right. Tell us what happened that day when you went to
11 the apartment and Lei was there, Naldi was there, Javi was
12 there?

13 A. Yes.

14 Q. What happened?

15 A. We went upstairs and they was preparing the stuff to bag
16 up some heroin. He start doing the grinder, he put the dope
17 in the grinder, he put the cut in there, then he put it on the
18 table, it's glass -- square glass, and he put some spoons in
19 there.

20 Lei was on one side, he was on the other one. And
21 he asked me if I want to work for him, and only thing I got to
22 do open up the baggies and put the tape on them. And I say
23 yeah.

24 Q. So who was there that day? Javi, Lei, Naldi, you. Was
25 there anyone else there?

1 A. I can't remember -- I can't remember. There was somebody
2 else, but I can't remember.

3 Q. All right. You said all you had to do was open the bags?

4 A. Yeah, you got to open the boxes, it's wax paper bag, 300
5 baggies in a box. So you open them, you get like a long
6 spoon, start opening them, keep them open, stack them up next
7 to them, they grab it with a little spoon, they got like a ID,
8 scrape it a little bit -- they know how much go in each bag,
9 tap it, pass it around -- they pass it to you, you got the
10 tape, you fold it and put the tape on it. That's what I was
11 doing.

12 Q. When you said they had a spoon and ID, can you explain how
13 they used the spoon and the ID?

14 A. Yes. The dope be in front of them, they got a small
15 spoon, they get the dope, scrape a little bit, take a little
16 bit of dope -- that's how much go inside the bag -- put it
17 inside of it, pass it to the side, we fold it and we put the
18 tape on it.

19 Q. And your job on that first occasion was to do what?

20 A. Put some tape on the bag -- fold it up, put some tape on
21 the bag.

22 Q. You weren't scooping the drugs and putting them in the bag
23 that time?

24 A. No. I don't know how to do that.

25 Q. All right. When you say you don't know how to do that, did

1 you ever try to do that?

2 A. I tried one time. It was a mess. I can't do that.

3 Q. Why was it a mess? What happened?

4 A. Because my hands too big and it frustrating. It got all
5 over.

6 Q. How small are the spoons that you're using?

7 A. Very small.

8 Q. All right. How small are these bags that the drugs are
9 being put in?

10 A. Small baggie.

11 Q. All right. You mentioned that the bags would come in a
12 box. There would be how many bags in a box?

13 A. 300.

14 Q. What was on the bags? Would there be anything on these
15 bags when they came out of the box?

16 A. Some of them come with -- you asking me they come stamped
17 or you asking me --

18 Q. Yeah, did they come stamped or did you have to put stamps
19 on them? How did that work?

20 A. Well, my brother got some stamp made up. He went to
21 Staple, he get a sign or a letter and they make the stamp and
22 he used to stamp the bags. That's his stamp so they know the
23 dope comes from him.

24 Sometime we use -- he go to the smoke shop where
25 the guy that owned the smoke shop, he like sell it with stamp

1 on it, signs on the back. The guy sold the whole thing. He
2 said don't sell it to anybody else. He gonna get that same
3 stamp.

4 Q. When you say he get the whole thing, he get the whole box
5 of 300?

6 A. Yeah, big box. They got a whole bunch of small boxes that
7 contain 300 boxes.

8 Q. So the small boxes had 300?

9 A. Yes.

10 Q. And your brother would get a big box from the smoke shop?

11 A. Tell him to hold them for him, don't sell to nobody else.
12 He wanted the stamp. He like the design. He only one get it.

13 Q. So there would be multiple boxes of 300 in the big box at
14 this smoke shop?

15 A. Yes.

16 Q. Okay. Did the bags -- did you do that process, that
17 bagging with cocaine and heroin? Did you bag up cocaine and
18 heroin with your brother?

19 A. Yes. What you mean?

20 Q. Well, I guess --

21 A. Same time or --

22 Q. Let's talk about -- let's stay with that first time. The
23 first time what were you bagging?

24 A. Heroin.

25 Q. All right. Did you bag -- did you agree to work with your

1 brother in the heroin business after that day?

2 A. Yes, I was working for him, yeah.

3 Q. What was your first involvement? After that first day of
4 bagging, what else did you do? Did you continue to bag?

5 A. Yeah, that's what I was doing, bagging up for him.

6 Q. What did you call that process?

7 A. We working at the table every time.

8 Q. Working at the table?

9 A. Yes.

10 Q. How often how would it come about that you would go to
11 work at the table for your brother?

12 A. My brother let me know. He tell Lei let us know, they
13 call you on the flip phone and tell you you got to work on the
14 table. That's how you know.

15 Q. What hours would you work when you worked the table?

16 A. Sometime we work to the next day.

17 Q. So more than like an hour or two?

18 A. Way more, yeah.

19 Q. Way more?

20 A. Yes.

21 Q. Typically what would you work? How many hours?

22 A. Almost 24 hours.

23 Q. Just bagging drugs?

24 A. Yeah.

25 Q. How much -- would you get paid for that?

1 A. For bagging up, yes.

2 Q. Who would pay you?

3 A. My brother Javi.

4 Q. How much would you get paid?

5 A. \$200.

6 Q. Was it always 200 or did that change?

7 A. Sometime he give you 2 to \$300.

8 Q. And over the course of your time working for your brother
9 who were some of the people that you worked the table with?

10 A. I work the table with my brother, Lei, Yankee, Tapon,
11 Pistolita, Vic, Axel, Obed. Almost all of them.

12 Q. Were those -- all those people that you just testified to,
13 were they present every time you work the table?

14 A. No.

15 Q. All right. So sometimes there would be only some of them
16 present?

17 A. Yeah, some of them. Sometime they work themself, not all
18 be present.

19 Q. All right. Were there times where other people bagged and
20 you weren't there?

21 A. Yes.

22 Q. What would be done -- let's talk just about on those other
23 occasions where you worked the table, did you bag heroin and
24 cocaine?

25 A. Sometime, yeah.

1 Q. All right. Is there a difference between how you would bag
2 the heroin versus how you would bag the cocaine?

3 A. Yes.

4 Q. Can you explain that to the jury? What was the
5 difference?

6 A. The difference is the heroin got the paper bags and got
7 the stamps. And the heroin is a small bag, but it's plastic.
8 And you got like a -- like a sealer thing, you got to open it,
9 and we burn it after we put the coke in it.

10 Q. Were there stamps on the cocaine bags usually?

11 A. No.

12 Q. These stamps that you talked about on the bags, were they
13 placed on the bags of heroin? Why were the stamps on the bags
14 of heroin?

15 A. Because that's -- that's letting people know that's good
16 dope and that's your dope, that's your name, that come from
17 Burbank or that come from LaForce or that come from Conkey and
18 they know it's the same stamp, it come from this person, come
19 from my brother, you know that's...

20 Q. Did the stamps change during the course of you working at
21 this operation or was the stamp -- was there one stamp that
22 lasted the whole time?

23 A. No, they changed.

24 Q. The stamp changed?

25 A. Yes.

1 Q. Why would they change the stamps?

2 A. My brother change the stamp. Some people OD or sometime
3 the police run down on a house, break down the house and stuff
4 like that, and they found some baggies, they found a stamp,
5 and they try to follow the stamp. So he switch the stamp
6 for -- put a different stamp; same dope, different stamp.

7 Q. All right. What was done with each of these little bags
8 after the heroin or cocaine would be put in it?

9 A. Well, the little baggies, we put the tape on it, we stack
10 them up in a little -- like a little container, we put a whole
11 bunch of them in there, and when we done all of us we start
12 counting ten at a time, we make bundles and we put it in a
13 plastic -- small plastic bag, we put ten bags in there and we
14 seal it and we make the packages.

15 Q. Ten bags would be a bundle; is that what you said?

16 A. Yes.

17 Q. And that's for cocaine or heroin?

18 A. That's heroin.

19 Q. So one bundle is ten bags of heroin?

20 A. Yes.

21 Q. What would you do with the bundles of heroin after you had
22 ten bags in one bundle? How else would you continue to
23 package them?

24 A. You get ten bundles, put it in a sandwich bag. Ten
25 bundles is a package. So after you make all the bundles, put

1 the ten baggies inside the plastic bag, you get ten of those
2 and you make a package.

3 Q. How many bags would be -- how many bags of heroin in one
4 package?

5 A. Ten bundles.

6 Q. Ten bundles. So that's 100 bags?

7 A. Yes.

8 Q. Would there be cocaine in -- put in the package with the
9 heroin?

10 A. No.

11 Q. What would you do with the bags of cocaine?

12 A. I don't understand what you mean.

13 Q. You said you would take the heroin, you would group them
14 in bags of ten?

15 A. Yes.

16 Q. Then take ten of those, put them together as part of a
17 package, right?

18 A. Yes.

19 Q. What would you do with the small bags of cocaine?

20 A. Small -- put it in a package you asking me?

21 Q. Yes.

22 A. So the small bag of cocaine, we put 50 bags in a small bag
23 and that's a package.

24 Q. So a package would be 50 bags of cocaine, and a 100 bags
25 of heroin?

1 A. Yes.

2 Q. Would that be -- those 100 and those 50 -- would that be
3 together in one bag and that's a full package?

4 A. No. They be separate.

5 Q. What would happen after they were counted up and put in
6 packages?

7 A. We -- the runner comes or we go take it to the runner and
8 they get sold on the blocks.

9 Q. Can you describe for the jury the number of bags of heroin
10 and cocaine that you would have at the end of a several hour
11 session of working at the table? How many bags would you
12 have?

13 A. A whole bunch.

14 Q. Can you give us an idea?

15 A. Like the heroin? Be like 3,000 bags.

16 Q. Okay. And when you started what did the heroin look like?

17 A. It was a mound.

18 Q. It was what?

19 A. It was in a mound.

20 Q. It was in a mound?

21 A. Yeah.

22 Q. You just referenced, like put your hands up a couple
23 inches above the ledge there?

24 A. Yes.

25 Q. It was just a loose mound?

1 A. Yes.

2 Q. And that's what they put the spoons in?

3 A. Yes.

4 Q. Was it on the table or on a desk or what was the heroin
5 put on?

6 A. It's on a table, but with a square glass on top of it, and
7 the heroin was on top of the glass.

8 Q. All right. The heroin would be put on a piece of glass?

9 A. Yes.

10 Q. How much heroin would be bagged up at a time? Do you know
11 the quantity in terms of grams that you would bag at a time?

12 A. No, not on the heroin. The heroin my brother was doing
13 the measuring and stuff, and he -- amounts he put in there,
14 but it was five to ten boxes.

15 Q. Five to ten boxes. And when you say "boxes," you're
16 talking about the boxes holding the bags?

17 A. Yes, the box -- they got 300 bags in it.

18 Q. All right. So you would bag up -- each box had how many
19 bags?

20 A. 300.

21 Q. So you would bag five to ten of those?

22 A. Yes.

23 Q. That would be the quantity of heroin?

24 A. Yes.

25 Q. Who decided how much heroin would be bagged at a time?

1 A. My brother Javi.

2 Q. So he would be the one that would put the pile in front or
3 on the table?

4 A. Yes.

5 Q. All right. He didn't tell you this is 200 grams or this is
6 300 grams? He just put it on the table?

7 A. No, he just -- he just -- he be telling us you got to go
8 work the table. We just go. Lei get the book bag, we start
9 taking out all the stuff. We use the grinder, the strainer,
10 the spoon, the razors and all that stuff, the baggies and all
11 that stuff.

12 He just start going with the Bullet because it's
13 like a Bullet grinder, he mixing all the stuff up. After he
14 done, he put it on the table and we start working.

15 Q. All right. Can you describe the pile of cocaine or the
16 quantities of cocaine that you would bag when you would work
17 the table?

18 A. 62s.

19 Q. You know what a 62 -- a 62 is what?

20 A. 62 grams.

21 Q. Okay. Now, you know what a 62 -- what 62 grams looks
22 like?

23 A. Yes.

24 Q. All right. How do you know a pile of cocaine would be 62
25 grams versus not knowing how many grams would be, for example,

1 in a pile of heroin?

2 A. You want me to -- can you repeat that question?

3 Q. Yeah. So you said you would bag 62 grams of cocaine?

4 A. Yes.

5 Q. But you weren't sure the number of grams of heroin?

6 A. Yes.

7 Q. Right?

8 A. Yes.

9 Q. How did you know that it would be 62 grams or so of
10 cocaine that you would be bagging?

11 A. Because my brother used to get the coke from Puerto Rico
12 and he break it down in Barrington. He weigh it, he break the
13 kilo, he put it on the scale. So every 62 -- 16 62s in a
14 kilo. He put it in double bag, sandwich bag, and separate
15 them. This is a 62. That's how we know. He put one out, he
16 tell us put one 62 out, put one old lady out, he put it on the
17 table. That's a 62.

18 Q. That's how you knew the quantity of the cocaine?

19 A. Yes.

20 Q. Okay. How often during the time you worked for your
21 brother did you work the table? Like how many days a week?

22 A. Three, two or three times a week.

23 Q. Did that -- did that number change from between 2013 and
24 2018?

25 A. Yes.

1 Q. What was the minimum you would work the table, for
2 example?

3 A. At the end when I was in 292 Barrington I wasn't working
4 the table like that because Obed, they got a new building on
5 East Main. They used to take the 62s over there and Obed used
6 to bag it up over there with some other people.

7 And we was more into getting the packages and
8 breaking the kilos down and selling them half a key, keys and
9 stuff like that.

10 Q. All right. Can you describe the locations that you worked
11 the table bagging the heroin and cocaine during the time that
12 you worked for your brother's operation?

13 A. Yes. 699 East Main; Liberty Pole; Barrington; the
14 General's apartment.

15 Q. When you say the "General's apartment" --

16 A. The apartment next to the General Hospital.

17 Q. Near the hospital, okay?

18 A. And Culver Road.

19 Q. Culver Road?

20 A. Yes.

21 Q. Let me put up Government's Exhibit 54 in evidence. Do you
22 recognize what's shown in Government's 54?

23 A. Yes.

24 Q. And what is shown in Government's Exhibit 54?

25 A. That's Culver.

1 Q. Is that a location that you worked the table at?

2 A. Yes.

3 Q. As part of your involvement in this operation?

4 A. Yes.

5 Q. And then if we can show you Government's 51. Those are
6 the apartments you testified earlier were Liberty Pole; is
7 that right?

8 A. Yes.

9 Q. Did you work the table at an apartment -- in that
10 apartment complex as well?

11 A. Yes.

12 Q. And if we could show you 59 in evidence. You also worked
13 the table at an apartment in this location?

14 A. Yes.

15 Q. This is the one you were referring to -- what did you call
16 it, the General?

17 A. General apartments.

18 Q. General apartments?

19 A. Yeah.

20 Q. So if we could show you also --

21 A. And 60 Malling where my mother used to live at, I bagged
22 there one time with my brother.

23 Q. 60 Malling?

24 A. Yes.

25 Q. You bagged there one time?

1 A. Yes.

2 Q. If we could show you Government's Exhibit 57. Do you
3 recognize what's shown in Government's 57?

4 A. Yes.

5 Q. What's that?

6 A. That's 60 Malling.

7 Q. Is that where your mother lived?

8 A. Yes.

9 Q. One time you bagged at that location as well?

10 A. Yes.

11 Q. And then you -- so these locations that you would work the
12 table, they changed over time while you were involved in this
13 operation; is that correct?

14 A. Yes.

15 Q. Can you give the jury an idea why the locations changed
16 over time?

17 A. My brother feel we got to move; or one time we move out of
18 Culver because Ishmael was fighting with his girl. She said
19 she was going to call the cops and we move.

20 And when Axel stole some drugs from my brother out
21 of Culver and all that stuff, so we move. And we would just
22 go to different places.

23 Q. Whose decision would it be to move the location of where
24 the drugs would be packaged? Who made that decision?

25 A. My brother Javi.

1 Q. At the end in January of 2018, where were the drugs being
2 packaged and stored? What locations?

3 A. Some the coke was stored in Barrington; and the new
4 building where Obed live at East Main, that's where they was
5 bagging up the coke and the heroin.

6 Q. All right. If we could show you Government's Exhibit 39.
7 Let me show you what's not in evidence, Mr. Figueroa, as
8 Government's 39. And Government's 40.

9 Do you recognize either of those photographs or the
10 buildings in either of those photographs?

11 A. Yes.

12 Q. Which photograph, the second photograph we just showed
13 you, or the first one, or both?

14 A. The second one.

15 Q. The second one, Government's 40?

16 A. Yes.

17 Q. What do you recognize the building in Government's Exhibit
18 40 to be?

19 A. That's the new building on East Main where Obed used to
20 live at.

21 Q. When you say the "new building," what was going on at that
22 new -- at an apartment in that new building?

23 A. That's where they was packaging the coke and heroin.

24 Q. That was toward the -- shortly before your arrest in
25 January 2018?

1 A. Yes.

2 Q. Does Government's -- did you ever go to this building?

3 A. Yes, to the back.

4 Q. All right. Did you ever go into the apartment that was
5 being used to bag drugs in this building?

6 A. Yes, one day; once or twice.

7 Q. Once or twice in the apartment?

8 A. Yes.

9 Q. Did you go into the parking lot on more than one occasion?

10 A. Yes.

11 Q. All right. Does this photograph fairly and accurately show
12 that building as it existed during the time that you went
13 there in connection with your involvement in this drug
14 operation?

15 A. Yes.

16 **MR. MARANGOLA:** At this time I'd offer Government's
17 40.

18 **MR. VERRILLO:** No objection.

19 **THE COURT:** Exhibit 40 will be received.

20 (**WHEREUPON**, Government Exhibit 40 was received into
21 evidence).

22 **BY MR. MARANGOLA:**

23 Q. And then, Mr. Figueroa, you also said that at the end, 292
24 Barrington was also a location that the drugs were being
25 processed at?

1 A. Yes.

2 Q. And that's where who lived at that time?

3 A. I live there; Leitscha live there; and my baby mom and my
4 daughter.

5 Q. All right. What would be -- what was kept in these
6 locations that were used for the processing and packaging of
7 the drugs? Can you tell the jury what was in these
8 apartments?

9 A. There was the packages with the baggies, the spoon, the
10 scales, drugs, money, guns.

11 Q. You said drugs. Obviously there were drugs there because
12 that's what you were packaging at these apartments; is that
13 right?

14 A. Yes.

15 Q. What kind of quantities of drugs were stored or kept at
16 these apartments?

17 A. They have half kilos or kilos, 62s, but whatever we was
18 gonna bag up.

19 Q. Would there be -- when you say "half kilo or kilos," are
20 you referring to cocaine or heroin or both?

21 A. Both.

22 Q. So would there be like larger quantities, more than what
23 you were actually bagging that particular day that would be
24 stored at the apartment?

25 A. Sometimes.

1 Q. Okay. And what other -- in addition to the bags and the
2 scales and the spoon, what other types of material would you
3 keep at these apartments?

4 A. Used to -- used to be Albuterol.

5 Q. What is that?

6 A. That's the liquid for treating asthma, and that's -- my
7 brother used to cook crack with.

8 Q. He used to cook crack with Albuterol?

9 A. Yeah. And baking soda.

10 Q. And baking soda?

11 A. Yes.

12 Q. Did you see him do that?

13 A. Yes.

14 Q. All right. What else would you use?

15 A. And some type of -- he got a bottle, he got some type of
16 chemical in there he spray.

17 Q. Did you know the mixtures that he would use for using
18 the -- mixing the heroin with the other drugs or the cocaine
19 with Albuterol or baking soda?

20 A. Yes, it's different. When he used to mix the heroin, he
21 used to put horse anesthetics, some downers, some pills and
22 some fentanyl.

23 When he used to cut the coke, he used to put some
24 type of pill, it's a upper.

25 And when he was doing the crack he would use

1 Albuterol and ammonia, something like he put in there to mix
2 the crack with the baking soda and stuff.

3 Q. Would you -- did you know the exact ratios of the amounts
4 he would mix from one thing to another?

5 A. No.

6 Q. You were not involved in that?

7 A. No.

8 Q. All right. In addition to the drugs and material for
9 processing and packaging the drugs, you said that there were
10 also firearms at these locations?

11 A. Yes.

12 Q. Can you describe -- can you describe the firearms you saw
13 at these locations?

14 A. 699 I saw three rifles, and my brother show me because he
15 got to go to the closet and get the book bag to get all the
16 stuff to bag up. And when he go, he open the closet, it was
17 three rifles laying on the floor in the closet.

18 Q. Your brother showed you those rifles?

19 A. Yes.

20 Q. All right. Can you describe the rifle that you saw?

21 A. They was two black rifles -- one got big brown handle,
22 three rifles.

23 Q. All right. Did you see firearms at any of the other
24 locations?

25 A. Yes.

1 Q. Tell us some of the other locations.

2 A. There was firearms on Culver; there was two TEC-9s, I
3 think it's a .40 or .45.

4 Q. Where else did you see firearms?

5 A. In Barrington.

6 Q. Barrington as well?

7 A. Yes.

8 Q. All right.

9 A. Barrington.

10 Q. Did you ever see firearms at any of the other apartments?

11 A. Yes, in by the General Hospital's apartment.

12 Q. What did you see there?

13 A. Escorpion AK-47. We was all working at the table, he came
14 in and he pass it to my brother, he pass it to Yankee, Yankee
15 left with it. I don't know what he did with it, but I saw it
16 in there.

17 Q. You said Escorpion brought it?

18 A. Yes.

19 Q. Is that the nickname of a person?

20 A. Yes.

21 Q. Okay. Who had access to these guns during the time that
22 you were working for this operation?

23 A. My brother.

24 Q. Did anybody else who was working the table also have
25 access to the guns?

1 A. My brother let them do it.

2 Q. All right. What were the guns for?

3 A. To protect the drugs if there was any problem.

4 Q. Now, you described some of the things that you did in this
5 operation at different times. Can you tell us how your
6 involvement changed over the course of the years that you
7 worked for your brother?

8 A. Yes. I first start doing the baggies with the tape. Then
9 I start going with Lei to the block taking dope down there,
10 bringing the money.

11 Then when I move to Barrington I start picking up
12 packages. And my brother was trying to show me how to break
13 kilos. And I was selling to customers of the organization; I
14 was selling 62s, 31, and half a key.

15 Q. All right. And at the time you were selling those 62s and
16 31s, that was toward the end of -- shortly before you were
17 arrested; is that right?

18 A. Yes.

19 Q. Okay. So you started in 2013 working the table. When was
20 it approximately that you became involved -- became like
21 muscle or whatever for Leitscha while bringing drugs to the
22 block?

23 A. Going on '15, around '15.

24 Q. All right. When was it approximately that you moved in to
25 Barrington?

1 A. I move in Barrington -- I move in Barrington in August.

2 Q. August of when?

3 A. 2017.

4 Q. 2017?

5 A. Yes.

6 Q. So like about five months or so before you were arrested?

7 A. Yes.

8 Q. All right. Let's talk about the defendant Pistolita. Do
9 you recall how you first met him?

10 A. Yes.

11 Q. Do you recall when it was approximately?

12 A. Yes.

13 Q. When was it?

14 A. Going on '15.

15 Q. Going on '15?

16 A. Yes.

17 Q. What do you mean going on '15?

18 A. Going into 2015, end of '14.

19 Q. End of '14, early 2015?

20 A. Yes.

21 Q. All right. Tell us what happened when -- where you were
22 when you met the defendant.

23 A. I met him by my brother house, 6 Burbank. And my brother
24 introduce me to him, that was like his Latin King brother.

25 Q. Your brother introduced the defendant to you as what?

1 A. Like his Latin King brother.

2 Q. His Latin King brother?

3 A. Yes.

4 Q. What else -- what did your brother refer to the defendant
5 as?

6 A. Pistolita.

7 Q. What did he call him?

8 A. Pistolita.

9 Q. All right. What else did your brother tell you about the
10 defendant?

11 A. That's all he said. Introduce me to him Pistolita.

12 Q. Did he give you any information about where the defendant
13 was from?

14 A. Yeah, he was from Buffalo.

15 Q. Your brother told you the defendant was from Buffalo?

16 A. Yes.

17 Q. Anything else in that -- at that first time that he
18 introduced you to the defendant?

19 **MR. VERRILLO:** Objection.

20 **THE COURT:** Overruled. Go ahead. You can answer
21 it.

22 **THE WITNESS:** No.

23 **BY MR. MARANGOLA:**

24 Q. You said no?

25 A. No.

1 Q. Did there come a time after you met the defendant that he
2 became involved in Javi's drug operation?

3 A. Yes.

4 Q. Approximately when was the next time you saw the defendant
5 after that first occasion that your brother introduced you to
6 him?

7 A. Seen him a few -- 2015 I saw him in 699.

8 Q. All right. Next time you saw the defendant was at 699
9 East Main?

10 A. Yes.

11 Q. Can you tell us what you observed him doing at 699 East
12 Main the next time you saw him?

13 A. He was at the table and he was talking business with my
14 brother.

15 Q. Who was at the table?

16 A. It was me, Lei, my brother, Naldi.

17 Q. And when you say he was talking business, were you there?
18 Did you come and Pistolita was already there, or did he arrive
19 after? How did you first see him that day?

20 A. We was there and Pistolita arrive and he came up, he sit
21 down and he was talking to my brother. We was all bagging up.
22 Every time we bag up, everybody start talking because we get
23 bored, we all talking.

24 And he was telling my brother he gonna sell some
25 drugs in Buffalo. So they was talking about some business

1 with the grams, how much was gonna go for, all that stuff.

2 Q. Were you -- was that conversation occurring while you were
3 at the table?

4 A. Yes.

5 Q. Can you describe the conversation that you heard at the
6 table between Pistolita and your brother?

7 A. My brother was trying -- they was trying to explain to
8 each other because my brother sell \$5 bags --

9 Q. He sells what?

10 A. \$5 bags.

11 Q. \$5 bags?

12 A. Yes, of heroin.

13 Q. Okay.

14 A. They was talking about how much it's gonna cost over
15 there, and the grams because a gram of heroin, it's strong, in
16 Buffalo can go for \$110 or 100, \$110.

17 Q. All right. When you say "100, \$110," that could be the
18 price for a sale of a full gram of heroin in Buffalo?

19 A. Yes.

20 Q. As opposed to what price for a gram in Rochester?

21 A. 70, 75, or 80.

22 Q. So Pistolita and your brother were discussing the
23 difference in the prices of heroin in Rochester and Buffalo?

24 A. Yes.

25 Q. What else did they discuss at that time?

1 A. That was -- they was discussing that. And I think he was
2 trying to come over to Rochester, like move to Rochester.

3 Q. When you say "he," who are you referring to?

4 A. Pistolita.

5 Q. All right. Was Pistolita discussing selling heroin in
6 Buffalo?

7 A. Yes.

8 Q. At that time?

9 A. Yes.

10 Q. And that was with your brother?

11 A. Yes.

12 Q. Okay. When's the next place you saw Pistolita after that
13 time where he was talking about selling heroin in Buffalo for
14 your brother?

15 A. We went to Buffalo and we met Pistolita up there, and it
16 was me, Lei and my brother. We went to see him, we went to a
17 pizzeria. He came with this guy named Blue Blood. He came
18 in; then Vic arrive, and he introduce Vic like his right-hand
19 man, his little brother. And we was talking about the drug
20 situation and --

21 Q. Who was talking about the drug situation?

22 A. Pistolita.

23 Q. Was talking to who?

24 A. To my brother.

25 Q. And what did you hear Pistolita and your brother

1 discussing?

2 A. Pistolita was saying that they was having a beef up there,
3 and I think Vic brother or Vic friend got killed. They was
4 having problems, stuff like that.

5 **MR. VERRILLO:** Objection.

6 **BY MR. MARANGOLA:**

7 Q. Hold on. You have to wait.

8 **THE COURT:** Was there an objection?

9 **MR. VERRILLO:** Yes.

10 **THE COURT:** Overruled. Go ahead. You may continue.

11 **THE WITNESS:** And we discussing to move to
12 Rochester, and he introduced Blue Blood. That was the guy
13 that was in the block selling for him.

14 **BY MR. MARANGOLA:**

15 Q. All right. Pistolita introduced Blue Blood to who?

16 A. To my brother Javi.

17 Q. As what?

18 A. The guy that was in the block for him, selling for him in
19 the block.

20 Q. The guy that was where? When you say on the block, what?

21 A. Pistolita block in Buffalo.

22 Q. On the block -- on Pistolita's block in Buffalo?

23 A. Yes.

24 Q. And why did Pistolita introduce that guy to your brother?

25 **MR. VERRILLO:** Objection, speculation.

1 **THE COURT:** Sustained.

2 **BY MR. MARANGOLA:**

3 Q. Did Pistolita say why he was introducing that guy to your
4 brother?

5 A. Yeah. He said that's the guy that gonna be in the block
6 selling drugs for him.

7 Q. That's the guy that's gonna be on the block in Buffalo
8 selling drugs for who?

9 A. For Pistolita.

10 Q. And where was Pistolita getting those drugs?

11 A. From my brother Javi.

12 Q. All right. So did Pistolita make statements about trying
13 to come to Rochester at that time?

14 A. Yes.

15 Q. And what was -- did he explain why he wanted to come to
16 Rochester?

17 A. Yeah. Because there was a beef -- his block was beefing
18 with another block.

19 Q. When you say "beef," what do you mean?

20 A. For the block, it was like a war over selling dope, his
21 block was beefing with another block and I think they shot
22 up -- they saying they kill Vic friend or his brother, and
23 they was trying to come to Rochester.

24 Q. All right. Do you recall seeing Pistolita after this
25 meeting in Buffalo at the pizza shop?

1 A. When we went and got -- when we went and got him to move
2 him to Rochester.

3 Q. How did that come about?

4 A. My brother tell me that we got to get Pistolita, he gonna
5 move down to Rochester. And we went and got him into his
6 house, we got a U-Haul truck, we went down there with his
7 family and we move him to Burbank.

8 Q. How long was it after you first met him that you and your
9 brother got a U-Haul and moved him from Buffalo to Burbank?

10 A. It wasn't that long. Like less than a month or two. It
11 wasn't that long.

12 Q. Less than a month or two?

13 A. Yeah, wasn't that long.

14 Q. Where did you move him to?

15 A. 6 Burbank.

16 Q. I'm sorry?

17 A. 6 Burbank.

18 Q. If we can put up Government's Exhibit 36. Is that the
19 location that you moved the defendant?

20 A. Yes.

21 Q. All right. And who did you move him there with?

22 A. Him and his wife, his kid, and this girl used to live with
23 him. I think her name was Deanna.

24 Q. All right. And who owned 6 Burbank at the time you moved
25 the defendant in there?

1 A. My brother Javi.

2 Q. All right. Did the defendant continue his involvement in
3 the operation after he moved into -- moved from Buffalo into 6
4 Burbank?

5 A. Yes.

6 Q. Can you explain to the jury how he continued his
7 involvement?

8 A. He got -- he got a position of the runner, he was in
9 charge of the block, he was still working -- I believe he was
10 in charge of the houses and the people that work there.

11 Q. When you say in charge of the people in the houses, what
12 are you referring to?

13 A. The drug house that's on Burbank. He make sure everything
14 is running right, any problem he gonna take care of it, he
15 call my brother, he take care of it, giving them the packages
16 to sell out of the houses.

17 Q. Was there more than one house that was being used by this
18 operation to sell drugs on Burbank?

19 A. Yes.

20 Q. And who was in charge of the houses on Burbank after the
21 defendant moved into 6 Burbank?

22 A. He was in charge.

23 Q. All right. And when you say somebody was a runner or in
24 charge, are they working -- is everybody working for that
25 person or are they all still working for Javi?

1 A. They work for my brother. You want me to explain?

2 Q. Yes.

3 A. Explain? What I'm saying he's in charge, meaning that's
4 his responsibility. My brother left him there, he's the
5 runner, so he got to answer to my brother to everything that
6 happen in the block, like the lookouts, the people that
7 selling out of the houses, the money, he got to make sure
8 money don't come out short.

9 So he collect the money from the people from the
10 houses, stock it, they go get -- or my brother go get it, and
11 they will count the money make sure everything -- that's how
12 it works.

13 Q. So if the sellers in the house come up short after selling
14 the drugs, who is going to be on the hook for that?

15 A. That's going to be Pistolita, the runner.

16 Q. All right. When you say ran the block or being in charge
17 of it, what kinds of responsibilities would that person have
18 aside from collecting the money?

19 A. Well, if anybody trying to sell drugs on the block or
20 anything that happen with the people, he got to tell --

21 Q. Can you give us answer an example of that?

22 A. Like when Tapon kill the guy on Burbank and North Clinton,
23 the guy came out of jail, he say he want to sell on Burbank.
24 That was when Tapon was the runner.

25 So they got into a argument with the guy. He

1 pulled out a gun, he still gonna sell drugs in there. Like a
2 week later Tapon killed him.

3 Q. All right. Would the runner also be in charge of
4 supplying the workers in the house with the drugs they were
5 suppose to sell?

6 A. Yes.

7 Q. How would the runner get that money? Let me rephrase it.

8 When Pistolita was the runner on Burbank, how would
9 he get the drugs he was providing to the workers in the
10 houses.

11 A. He go get it himself or he call my brother or Lei, and I
12 go with Lei because I was Lei like -- protection for Lei. And
13 I go down there and we give him the packages and he
14 count whatever he give Lei, the money, and gave the drugs to
15 the people in the houses to sell.

16 Q. When you were -- when Pistolita was a runner, how often
17 did you provide him with additional packages of drugs to sell
18 on a daily basis? How often would that happen?

19 A. On a daily basis. It would happen like two or three
20 times.

21 Q. Two or three times a day?

22 A. Yeah.

23 Q. Two or three times a day?

24 Q. Two or three times a day you and Lei would go down to the
25 house on Burbank?

1 A. Yes.

2 Q. And what would your involvement with Pistolita be when you
3 went down there?

4 A. When we went there Lei talk to him, he got the money
5 wrapped up with a little note how much money it is, and Lei
6 pass him the -- because they -- when they call let you know
7 how much is left, how much they sold already so they can tell
8 you we got a bundle and a half left, so you got to take them
9 some more, and then Lei give him the dope, he give the money,
10 she count it, and that's how it works.

11 Q. What would you deliver to Pistolita after he gave you the
12 money?

13 A. We give him some heroin or coke.

14 Q. How many packages would you give him usually?

15 A. Like three, three or four packages.

16 Q. All right. That would happen a couple of times a day?

17 A. Yes.

18 Q. Now, who would be in charge of the lookouts on the block?

19 A. He be in charge.

20 Q. All right. And how would he go about deciding who can be a
21 lookout? Would he be able to hire a lookout or take care of a
22 lookout?

23 A. Yeah, he can talk to the person, but he got to tell my
24 brother too. He got to call my brother, let me brother know
25 he get one of the fiends, they put him there and they paid him

1 with dope.

2 Q. All right. When you say he got to let your brother know,
3 what do you mean?

4 A. He made the type of decision, he got to tell my brother
5 who he got working. If it's a new guy, my brother got to know
6 who it is. So he be the lookout, he's gonna be a lookout, he
7 got to tell my brother.

8 Q. All right. Can he just make that decision I'm going to
9 hire this guy as a lookout?

10 A. No. You got to tell my brother.

11 Q. All right. Why does he tell your brother?

12 A. Because my brother is the boss. He work for my brother.

13 Q. All right. Because your brother would have the final say?

14 A. Yes.

15 Q. At the time Pistolita was a runner for Burbank, did he
16 also work the table?

17 A. Yes.

18 Q. All right. Did you ever see -- while Pistolita was a
19 runner on Burbank, did you ever see him operating any
20 vehicles?

21 A. Yes.

22 Q. Can you describe some of the cars you saw him operating?

23 A. He was driving my brother Ford Explorer. That was the
24 first one he was driving. He was driving a 300 Chrysler. And
25 he was driving a Mustang, a red Mustang. And I saw him in a

1 Honda Accord.

2 Q. That was whose car?

3 A. Obed.

4 Q. All right. You said you saw him in a Chrysler 300?

5 A. Yes.

6 Q. What color was that car?

7 A. Like gray.

8 Q. What color was Obed's Honda?

9 A. It was like burgundy.

10 Q. All right. I'm going to show you what's in evidence as
11 Government's 175. Do you recognize that car?

12 A. Yes.

13 Q. What car do you recognize that to be?

14 A. That's Obed car, the Honda Accord.

15 Q. All right. Did you see Pistolita operate that car on
16 occasions while he was the runner at Burbank?

17 A. Yes.

18 Q. How many occasions would you say you saw him operating
19 that vehicle?

20 A. I wasn't counting, but I saw him in the car.

21 Q. Okay. Did there come a time when Pistolita was living at 6
22 Burbank when the police raided that house?

23 A. Yes.

24 Q. How did you learn about the raid at 6 Burbank?

25 A. From my brother.

1 Q. What did your brother tell you?

2 A. My brother was pissed off because Pistolita got caught
3 with some drugs in his house.

4 Q. Your brother you said was pissed off because Pistolita got
5 caught with drugs in whose house?

6 A. In my brother house.

7 Q. Even though Pistolita was living there?

8 A. Yes.

9 Q. It was your brother's house?

10 A. Yes.

11 Q. Why did your -- did your brother explain to you why he was
12 mad?

13 A. He was mad because he got a stash house, not suppose to
14 have dope in his house. Can get in trouble. Track him.

15 Q. I'm sorry. You said that your brother said he got mad
16 because there's a stash house?

17 A. Yes.

18 Q. Where were the drugs supposed to be kept?

19 A. In the stash house.

20 Q. And not at your brother's house at 6 Burbank?

21 A. Yes.

22 Q. Did you ever talk about the raid at 6 Burbank with the
23 defendant?

24 A. Yes.

25 Q. What, if anything, did he tell you?

1 A. We was talking to him, to my brother, and he say he was --
2 explain to my brother that he told the police when they went
3 in there that the little bit of drug they found, it was for
4 personal use. And they miss -- there was a Kool-Aid
5 container, which has got -- the bottom is fake, there was some
6 drugs in there, they didn't found it; and they missed
7 something -- I don't know what it was, he said they missed
8 something in the attic.

9 Q. The police missed something?

10 A. Yes, that was in the attic, yeah.

11 Q. That was in the attic? You don't remember what he said
12 they missed?

13 A. No. He said they missed something up there.

14 Q. What was the context of the defendant saying that he told
15 the police that the bags were for his personal use?

16 A. What was the? Can you repeat?

17 Q. In other words, why was the defendant telling Javi that he
18 told the police that the bags were there for his personal use?

19 **MR. VERRILLO:** Objection, speculation.

20 **THE COURT:** Overruled. Go ahead, if he told you.

21 **THE WITNESS:** Because he didn't want them to track
22 that was a drug house. And my brother could have got in
23 trouble. He said I told them it was my personal use so they
24 don't know he's selling drugs.

25 **BY MR. MARANGOLA:**

1 Q. All right. I'd like to put up what's in evidence as
2 Government's 44. Mr. Figueroa, do you recognize any of the
3 houses shown here in Government's 44?

4 A. Can I point to it?

5 Q. If you touch the screen again it will make a mark. You
6 made a mark over the house in the center of that photo?

7 A. Yes.

8 Q. What do you recognize that house to be?

9 A. That's the house -- when Pistolita was the runner, that
10 was selling drugs out of the house.

11 Q. Where is that house?

12 A. The house is in the same sidewalk where Pistolita -- where
13 my brother house is, 6 Burbank.

14 Q. You say same sidewalk? It's on the same side of the
15 street?

16 A. Yeah, the same side of the street, yeah.

17 Q. All right. You see on the front -- the top portion of that
18 there appears to be burn marks on that location?

19 A. Yes.

20 Q. And you identified that as one of the places that was one
21 of your brother's drug houses?

22 A. Yes.

23 Q. That Pistolita was in charge of?

24 A. Yes.

25 Q. Who was working in that house while Pistolita was the

1 runner for it?

2 A. It was --

3 Q. Some of the people, if you remember?

4 A. It was Rafi, Bebo, it was Cano, Frankie. It was Rafi's
5 girlfriend too, but I don't remember her name. Green Eyes.

6 Q. Green Eyes?

7 A. Yes.

8 Q. That was a nickname for someone else that sold out of
9 there?

10 A. Yes.

11 Q. All right. Did there come a time when this house got
12 burned?

13 A. Yes.

14 Q. All right. Do you recall when approximately that house
15 got burned?

16 A. Yeah, it was 2015. The house got raided -- the house got
17 raided. First they knock the doors down, they lock a few
18 people up, they lock Rafi up; he was selling out of the house,
19 and then they let him go.

20 And there was a rumor that Pistolita got a little
21 scared. They say it was a bug in there, they put a bug and
22 the police is watching.

23 **MR. VERRILLO:** Objection, lack of foundation.

24 **THE COURT:** Sustained. That will be stricken.

25 **BY MR. MARANGOLA:**

1 Q. All right. Did you -- how did you learn about what
2 happened? How did you learn there had been a raid at 14
3 Burbank here in Government's 44?

4 A. I heard from my brother.

5 Q. All right. What did your brother tell you about it?

6 A. That they ran down the house, they knock the house down,
7 the door and --

8 Q. When you say they "ran down the house," what do you mean?

9 A. The police knock the door down.

10 Q. Okay. And did he tell you anything about -- or did the
11 defendant tell you anything about how it came to be burned?

12 A. My brother got mad at Pistolita because he took the
13 position of his own --

14 Q. I'm sorry, that was a little too fast for me.

15 A. My brother got mad at Pistolita. He took the decision on
16 his own trying to burn the house and my brother --

17 Q. I'm sorry, who made the decision on his own to burn the
18 house?

19 A. Pistolita.

20 Q. That's what your brother told you?

21 A. Yes.

22 Q. And he was mad about that?

23 A. He was mad about that, yeah.

24 Q. Why did he tell you he was mad about that?

25 A. Because you selling drugs in a block and he say the police

1 is gonna come and the fire department, and they wasn't gonna
2 make money. So you gonna stop the dope flow.

3 Q. Did you talk to Pistolita at all about why he burned the
4 house?

5 A. I don't recall talking to him about it.

6 Q. Did your brother tell you what Pistolita told him as to
7 why he burned the house?

8 A. Yes.

9 Q. What did your brother tell you that Pistolita told him was
10 the reason he burned the house?

11 A. That he heard they put a bug in there when the police
12 raided the house. He got scared they put a microphone in
13 there. He just trying to burn the house.

14 Q. So Pistolita burned it because he thought the police put a
15 bug or a microphone in the house?

16 A. Yes.

17 Q. Okay. After the raid at 6 Burbank and the raid at 14
18 Burbank, where did the -- where did they change the drug
19 operation to? The drug house?

20 A. Right -- across the house, right in front of the house.

21 Q. When you say across the house in front, you mean across
22 the street?

23 A. Yeah, the opposite side of the sidewalk there.

24 Q. Yeah. If we could show you Government's 43, which is in
25 evidence. Mr. Figueroa, do you recognize any of the houses

1 shown in Government's Exhibit 43?

2 A. Yes.

3 Q. Which houses do you recognize?

4 A. I recognize all three of them, but the last two on the
5 left side, this one and this one.

6 Q. All right. I see a mark on the blue house; and it changed
7 to the house next to it. You recognize both the houses in the
8 center of the photograph?

9 A. Yes.

10 Q. All right. Right now there's a mark -- a little yellow
11 mark on the house to the right of the tree that's in the
12 center of the photograph?

13 A. Yes.

14 Q. What do you recognize that house to be?

15 A. Where Pistolita -- that burned house, that's where they
16 moved -- they moved to that house.

17 Q. They moved to that house, the white house directly to the
18 right of the tree in Government's 43?

19 A. Yes.

20 Q. And these houses are all on Burbank; is that right?

21 A. Yes.

22 Q. All right. So that became the new drug spot?

23 A. Yes.

24 Q. That Pistolita was in charge of?

25 A. Yes.

1 Q. Now, you also touched the house to the left of that, the
2 blueish house with the flag in the top window?

3 A. Yes.

4 Q. What do you recognize that house to be?

5 A. It was the last house that we was selling drugs from when
6 we got arrested.

7 Q. So at the time of your arrest in January of '18, that blue
8 house with the Puerto Rican flag in the top, that was the drug
9 spot on Burbank?

10 A. Yes.

11 Q. All right. During the time Pistolita was part of the
12 organization, did you know him to stay at other locations in
13 addition to your brother's house on 6 Burbank?

14 A. Yes.

15 Q. Where else did he stay?

16 A. Well, he stay at Liberty Pole one time with his girl; with
17 Flaco, with Palito; with Vic; he stay with Green Eyes'
18 daughter; and he stay in Burbank in a few houses -- from this
19 house that I just mark, a few houses down. He was living
20 there with some girl from Puerto Rico.

21 Q. All right. Who else stayed at -- at the apartment in
22 Liberty Pole Way during the time that you were working there?

23 A. The time I was working there, Vic stay in the apartment;
24 Obed stay in the apartment; Pistolita stay in the apartment,
25 and his family.

1 Q. All right.

2 A. Flaco.

3 Q. The apartments that you previously identified as locations
4 that the organization used to bag up the drugs, can you tell
5 the jury which of those -- did you bag drugs with Pistolita at
6 each one of those locations?

7 A. No.

8 Q. You did not?

9 A. No.

10 Q. All right. Which locations that you remember was the
11 defendant present and bagging with you while you were a member
12 of this organization?

13 A. That was in Liberty Pole; 699; and General -- by the
14 General Hospital.

15 Q. All right. So -- and I think you also mentioned that there
16 was a building at Culver Road that was being used to bag
17 drugs; is that right?

18 A. Yes.

19 Q. And did you ever see the defendant ever bag with you
20 there?

21 A. No.

22 Q. Okay. And then you said that at the -- at the end of the
23 operation shortly before your arrest there was the apartment
24 on -- another apartment on Main Street that was being used to
25 bag; is that right?

1 A. Yes.

2 Q. And did you ever see the defendant bag at that location?

3 A. No.

4 Q. All right.

5 **THE COURT:** Let's take a break.

6 **MR. MARANGOLA:** Thank you, Judge.

7 **THE COURT:** Ladies and gentlemen, at this time we're
8 going to take a recess approximately 20 minutes. In the
9 meantime do not discuss the matter or allow anybody to discuss
10 the matter with you. The jury may step down.

11 (WHEREUPON, there was a pause in the proceeding).

12 (WHEREUPON, the defendant is present; the jury is
13 present).

14 **THE COURT:** We'll begin as soon as the witness is
15 brought back.

16 **MR. MARANGOLA:** Thank you, Judge.

17 **THE COURT:** You may proceed.

18 **MR. MARANGOLA:** Thank you, Your Honor.

19 **BY MR. MARANGOLA:**

20 Q. All right, Mr. Figueroa, we previously had discussed the
21 different apartments that the organization used to bag drugs
22 at. Do you recall that?

23 A. Yes.

24 Q. All right. And those apartments included one inside this
25 building here shown in Government's 53 at 699 East Main; is

1 that right?

2 A. Yes.

3 Q. And you said in these apartments there were firearms that
4 you observed; is that correct?

5 A. Yes.

6 Q. At this time I'm going to show you a couple of firearms
7 and ask if you can tell us if you recognize the firearm and if
8 you do, from where, all right?

9 I'm showing you -- again, this is a firearm that we
10 displayed yesterday, this has been made safe, it's inoperable
11 for everyone in the courtroom's information.

12 I'm holding Government's Exhibit 322. Do you see
13 this, Mr. Figueroa?

14 A. Yeah.

15 Q. Is that a firearm you recognize from one of the stash
16 apartments in this organization or no?

17 A. No.

18 Q. You do not?

19 A. No.

20 Q. Okay. I'm going to show you Government's Exhibit 321. Do
21 you recognize this weapon at all from any of the stash
22 apartments utilized by the organization?

23 A. Yes.

24 Q. And what do you recognize -- how do you recognize this
25 weapon as a firearm?

1 A. Got tape on the handle.

2 Q. I'm sorry?

3 A. Got tape on the handle.

4 Q. You see the tape on the handle you recognize?

5 A. Yes, tape on the handle, yes.

6 Q. This firearm you recall observing in one of those stash
7 apartments during the time you worked there?

8 A. Yes, 699.

9 Q. At 699?

10 A. Yes.

11 Q. Shown here in Government's 53?

12 A. Yes.

13 Q. I'm showing you Government's 318. Do you recognize this
14 firearm?

15 A. No.

16 Q. You do not?

17 A. (Shakes head).

18 Q. Showing you Government's 320. Do you recognize this
19 firearm?

20 A. No.

21 Q. Showing you Government's Exhibit 319. Do you recognize
22 this firearm?

23 A. Yes.

24 Q. What do you recognize this firearm to be?

25 A. The one that was in 699.

1 Q. One of the firearms inside 699?

2 A. Yes, rifle.

3 Q. How do you recognize this firearm as one of the ones from
4 699?

5 A. From the handle, the way it looks.

6 Q. The "handle" meaning this portion here?

7 A. Yeah, the portion.

8 Q. Or down here?

9 A. The back and the top.

10 Q. The back of the firearm?

11 A. Yes.

12 Q. Where my hand is right now? And let the record reflect
13 I'm holding the stock. And this portion up here, you said the
14 top?

15 A. Yes.

16 Q. Okay. Finally I'm going to show you Government's 323. Do
17 you recognize this firearm?

18 A. Yes.

19 Q. What do you recognize this firearm from?

20 A. 699.

21 Q. All right. How do you recognize this as one of the
22 firearms from 699?

23 A. From the big handle.

24 Q. From the big handle?

25 A. The big wooden handle, yeah.

1 Q. This portion of it, the handle here?

2 A. Yes.

3 Q. The wooden part?

4 A. Yes.

5 Q. All right. So we're clear, Mr. Figueroa, those firearms
6 were at the apartment on 699 that you and others would bag
7 drugs up as part of your involvement in this operation; is
8 that right?

9 A. Yes.

10 Q. And one of the individuals that you used to bag up drugs
11 at that apartment is the person you identified in court here
12 as Pistolita; is that right?

13 A. Yes.

14 Q. Okay. Mr. Figueroa, can you give the jury an estimate, if
15 it's possible, how much cocaine and heroin Javi's organization
16 was selling, say, on a weekly basis during the time that you
17 were a member of it?

18 A. 3 to 4 kilos, 5 to 10 kilos. Depends on the...

19 Q. 3 to 4 kilos or 5 to 10 kilos?

20 A. Yes.

21 Q. Of what?

22 A. Of cocaine and heroin.

23 Q. Of both cocaine and heroin?

24 A. Yes.

25 Q. And you mentioned earlier that there were packages of

1 cocaine that would come from Puerto Rico in the mail?

2 A. Yes.

3 Q. How much did those -- how many kilos of cocaine did those
4 packages from Puerto Rico contain?

5 A. 2 to 3 kilos.

6 Q. All right. Now, these quantities of -- so there was 2-3
7 kilos per week of heroin and cocaine?

8 A. Yes.

9 Q. Did those quantities change during some of the years you
10 worked for your brother?

11 A. Yes.

12 Q. All right. Let's talk about sort of toward the end of the
13 operation. You said you moved into Barrington in -- was it
14 sometime in 2017?

15 A. Yes.

16 Q. And when was it approximately?

17 A. Around -- I think around August.

18 Q. All right. And before you moved into 292 Barrington, who
19 moved there -- I'm sorry, who lived there?

20 A. Leitscha was living there; Yankee was living there; my
21 niece and her boyfriend used to live there with them.

22 Q. Yankee was living there before you?

23 A. Yes.

24 Q. And at the time Yankee was living there, was he a member
25 of this operation as well?

1 A. Yes.

2 Q. Did you move in with Yankee or did Yankee leave at the
3 time you moved in?

4 A. When I moved there only Lei was there.

5 Q. It was only Lei?

6 A. Yeah, when I moved there.

7 Q. Where had Yankee gone?

8 A. Yankee was gone to Puerto Rico.

9 Q. When you moved to Barrington, Yankee had left for
10 Puerto Rico?

11 A. Yes.

12 Q. Was Yankee still participating in the drug operation even
13 though he wasn't in Rochester anymore?

14 A. Yes.

15 Q. Once you moved into Barrington did you pay rent at that
16 building? At that home?

17 A. I was paying money to Lei, yes.

18 Q. You were paying money to Lei?

19 A. Yes.

20 Q. All right. And at that time what types of drug activity
21 was occurring at 292 Barrington at the end of 2017 into early
22 2018?

23 A. You asking me about the coke, the heroin or --

24 Q. Was there -- with respect to either. Was there heroin
25 coming into 292 Barrington?

1 A. No.

2 Q. Was there cocaine coming into 292 Barrington?

3 A. Yes.

4 Q. All right. Before we get to the cocaine, what was
5 happening with the heroin in terms of the operation in the end
6 of 2017, early 2018?

7 A. My brother left this guy -- his name is Junito El Gordo.

8 Q. Hold on, I'm sorry, slow you down. I want to help
9 Ms. Macri out. The name is Junito, J-U-N-I-T-O?

10 A. Yes.

11 Q. El?

12 A. Gordo.

13 Q. El Gordo, G-O-R-D-O?

14 A. Yes.

15 Q. All right. Go ahead.

16 A. My brother left him in charge of the heroin. My brother
17 didn't want to deal with no more heroin. He said it was a
18 headache.

19 The only thing he was -- the only thing he was
20 doing for Junito El Gordo was cutting up the dope for him,
21 preparing it for him, putting fentanyl in it; and he was
22 selling it on Burbank, and the last house where we got
23 arrested Junito El Gordo was in charge of the heroin.

24 Q. All right. So Javi would mix the heroin, but he was no
25 longer involved in bagging up the small quantities?

1 A. No.

2 Q. Who was responsible for that?

3 A. Junito El Gordo.

4 Q. All right. But heroin was still being sold at that time
5 in the end of 2017, early 2018?

6 A. Can you repeat the question?

7 Q. Was Javi still making money from selling heroin at the end
8 of 2017 into early 2018?

9 A. Yes, Junito El Gordo was paying him.

10 Q. Who was paying him?

11 A. Junito El Gordo was paying him, yes.

12 Q. Let's talk about the cocaine during that time. At the end
13 of 2017 into 2018, what was happening with the cocaine?

14 A. The cocaine -- we was selling cocaine, we was getting the
15 packages from Puerto Rico, my brother was selling kilos,
16 selling half a kilo, 62, 31 and so supplying the block.

17 Q. So that was continuing on all the way up until your
18 arrest?

19 A. Yes.

20 Q. Were you involved in breaking down the kilos at 292
21 Barrington while you lived there?

22 A. My brother was breaking them down. He was trying to show
23 me how to break it down. He was doing it, but he's the only
24 one that open the box and break the kilo down.

25 Q. All right. And when you say "break the kilo down," can you

1 describe for the jury what you mean? What would happen at 292
2 Barrington?

3 A. After we get the packages from the addresses, we take it
4 to 292 Barrington. Sometime he wasn't in there, so we got to
5 wait. Sometime he wasn't there when we brought -- me and Lei
6 brought the box to 292 Barrington.

7 Then he shows up and he open the box, he get --
8 it's a box of Skittles, small box of Skittles, small box of
9 M&M in them, he open them, then he start unwrapping, cutting
10 the plastic little by little.

11 He got some liquid in -- I think it's Lysol so they
12 don't detect. Until he get to the bottom of it, it's like a
13 black rubber band it's in the bottom of it, then he cut that
14 and there's another plastic wrapper. He take it out, sometime
15 it's a \$2 bill in there or big stamp.

16 He take it out, he put it on the scale, and he
17 weigh it, see how much it is, make sure it wasn't short. Then
18 he break it down, he got like a little mallet, break it down,
19 and he start -- he put it on the scale, make sure 62 grams in
20 each piece.

21 He put it in a sandwich bag, sample it, that's the
22 one he gonna cut and sell -- and sell it to the block.

23 Q. How many sandwich bags with 62 grams would come out of one
24 of those kilos?

25 A. 16.

1 Q. And once those bags -- once the kilo was broken into those
2 bags of 62 grams, where would they be held? Stored?

3 A. They held in Barrington in a Home Depot bucket.

4 Q. All right. Let me show you what's in evidence as
5 Government's 288. Do you recognize what's shown in
6 Government's 288?

7 A. Yes.

8 Q. What do you recognize in that photograph?

9 A. That's the Home Depot bucket we used to put the coke.

10 Q. Is that inside 292 Barrington?

11 A. Yes, that's in the basement.

12 Q. What else do you recognize, if anything, in that
13 photograph?

14 A. I recognize the Albuterol.

15 Q. Albuterol?

16 A. Yeah.

17 Q. If you touch your screen. All right, you just made a
18 yellow mark in the center of the screen; is that right?

19 A. Yes.

20 Q. What are you indicating is there?

21 A. That's Albuterol.

22 Q. The Albuterol?

23 A. Yeah.

24 Q. That was used for what?

25 A. That's used to -- my brother used to use it to cook crack.

1 Q. All right. If we could go to 289? Mr. Figueroa, do you
2 recognize what's shown inside Government's 289?

3 A. Yes.

4 Q. What's that?

5 A. That's the coke. That's the baggie. Coke in the
6 Home Depot bucket.

7 Q. All right. That's where you store the cocaine after it was
8 broken down into smaller quantities?

9 A. Yes.

10 Q. What do you store at 292 Barrington -- in addition to the
11 Albuterol, did you store material for processing or grinding
12 or weighing cocaine?

13 A. Yes.

14 Q. And where was that?

15 A. That was in Barrington.

16 Q. All right. Let me show you Government's 294. Do you
17 recognize what's shown in Government's 294?

18 A. Yes.

19 Q. What is that?

20 A. That's the Bullet my brother used to grind the heroin and
21 the coke. And this is the -- it's like a little pocketbook
22 that contain the spoons, the big spoons, the little spoons, ID
23 sometime, razor.

24 Q. All right. That was stored at 292 Barrington?

25 A. Yes.

1 Q. Now, was -- your brother you said was the person that was
2 opening the packages himself from Puerto Rico?

3 A. Yes.

4 Q. And the kilos were -- the drugs were being stored at 292
5 Barrington at the end?

6 A. Yes.

7 Q. Did your brother live at 292 Barrington?

8 A. No.

9 Q. Who was living there?

10 A. His mistress Leitscha.

11 Q. And who else?

12 A. Me, my girl, my daughter.

13 Q. So you guys lived where Javi was storing the drugs?

14 A. Yeah. It's a stash house.

15 Q. And the quantities of 62 grams, where were some of those
16 quantities taken after they were broken down at 292?

17 A. They was to the new place where Obed live at East Main,
18 the new building. That was the last building. They used to
19 take them there so they can bag them up.

20 Q. All right. Would they go from 292 Barrington to the new
21 building on Main Street where Obed lived?

22 A. By Leitscha. Leitscha take them over there, my brother
23 take them over there.

24 Q. All right. After the drugs were taken to Obed's new place
25 on Main Street, what would happen to them?

1 A. The 62 sit on the table and they bag it up in little
2 baggies, then they take them to Burbank to get sold out of the
3 houses.

4 Q. All right. If we could show you Government's Exhibit 35.
5 Mr. Figueroa, if you touch the right corner of your screen
6 there it will pull that menu up. Touch that green arrow
7 again. Yup, hit clear on the bottom. All right, then if you
8 touch that green arrow again. Thank you.

9 Do you recognize what's shown in this aerial
10 photograph marked Government's Exhibit 35?

11 A. Yes.

12 Q. What is it?

13 A. This is a map of Burbank, got Leo, Remington.

14 Q. I'm sorry, you got to speak into the mic. I know it's
15 hard when you're looking at the screen, but Ms. Macri can't
16 hear you when you're not speaking into that mic.

17 A. That's showing the map of the streets.

18 Q. Does Government's Exhibit 35 show some of the streets that
19 the operation had drug houses on?

20 A. Yes.

21 Q. All right. Do you see the houses marked 6, 14, 11 and 15?

22 A. Yes.

23 Q. Are those locations that were involved in your brother's
24 drug operation that you worked for?

25 A. Yes.

1 Q. And is that the block that says Burbank Street on
2 Government's 35 that the defendant Pistolita was the runner
3 for?

4 A. Yes.

5 Q. All right. Was the defendant the only runner for Burbank
6 Street?

7 A. No.

8 Q. Who were some of the other runners during the time you
9 worked for your brother? Who were some of the other runners
10 for Burbank Street?

11 A. It was Pistolita, Yankee, Vic, Tapon.

12 Q. All right. And I think you testified earlier that one of
13 the runners' responsibilities was to handle any problem?

14 A. Yes.

15 Q. Did you ever see the defendant Pistolita ever handle any
16 problem that arose on Burbank Street while he was the runner?

17 A. Yes.

18 Q. Can you describe that for the jury?

19 A. Yes. It was this fiend name Shorty, almost shorter than
20 him. His name was Shorty, and he was this fiend. There was
21 this girl that -- white girl went to the block and she gave
22 him a blow job for some heroin. And instead of him giving him
23 the stamp Pistolita was giving them for the block, he gave him
24 another bag that got a different stamp.

25 Q. I'm sorry to interrupt you. Who gave who a stamp?

1 A. Shorty.

2 Q. Is Shorty a female or a male?

3 A. Shorty is the male.

4 Q. Okay. Shorty is a male?

5 A. Yes.

6 Q. And what did he do?

7 A. He gave her -- some dope to the girl. She gave him a blow
8 job for the dope, but it wasn't the same stamp, it wasn't the
9 dope from Burbank. It was from somewhere else.

10 Q. Where did this happen?

11 A. This happen on Burbank.

12 Q. So Shorty gave this female dope in a bag that had a
13 different stamp on it?

14 A. Yes.

15 Q. And that occurred on Burbank?

16 A. Yes.

17 Q. While Pistolita was the runner?

18 A. Yes.

19 Q. So what happened to Shorty as a result of giving someone
20 else dope that didn't have the Burbank stamp on it while he
21 was on Burbank?

22 A. Pistolita call my brother on the *maraca*, this is a flip
23 phone, and my brother said something to him, and he pistol
24 whipped Shorty.

25 Q. Who pistol whipped Shorty?

1 A. Pistolita.

2 Q. When you say "pistol whipped," can you describe what you
3 saw?

4 A. Pull out a gun, hit him in the head, side of the head.

5 Q. Pistolita hit Shorty on the side of the head?

6 A. Yes.

7 Q. With a handgun?

8 A. Yes.

9 Q. What happened to Shorty when he did that?

10 A. Shorty stopped working. He bled, he left, he stopped
11 working.

12 Q. He stopped working?

13 A. Yeah, he stopped working there.

14 Q. Before Pistolita did that, had Shorty been one of the
15 people that worked on Burbank?

16 A. Yes.

17 Q. Where had he worked, if you remember?

18 A. In the houses.

19 Q. Okay. What's the problem with Shorty giving someone else
20 dope that has a different stamp than was being sold by the
21 other drug houses on Burbank?

22 A. Because if he's selling my brother's dope, why he gonna
23 have somebody's else stamp? He's supposed to sell my brother
24 stamp. So he got pissed off.

25 Q. So you just mentioned a term, "maraca"?

1 A. Yes.

2 Q. Can you tell the jury what you mean by "*maraca*"?

3 A. That's a code we use for, it's Puerto Rican slang, we call
4 it *maraca* because it mean nothing, you can throw it out after
5 you use it for like a week or two, you throw them out.

6 So it's not -- it's not your personal phone; it's a
7 drug phone, it's a flip phone.

8 Q. So a *maraca* was a term that you used to describe a flip
9 phone that was used to do drug activity? To conduct drug
10 business?

11 A. Yes.

12 Q. How did you get a *maraca*?

13 A. My brother send Lei to a Arabic store there, they get the
14 *maracas* and she's in charge of that. She go to everybody --
15 the runner and whoever was working with us in the
16 organization -- and some of them get new phones, throw old
17 ones out; and she put the contact in the phone in there so
18 that's how we talk business with the phone.

19 Q. Did every member of the organization get a *maraca*?

20 A. No.

21 Q. Can you tell us who would and wouldn't get *maracas*?

22 A. The runner get a *maraca*. The person who is like the most
23 high inside the house get a *maraca*. Sometime they use the
24 same *maraca*. Somebody get fired, they get the *maraca*. They
25 fire the guy, they give the other guy start working, they give

1 him the *maraca*. They reuse it.

2 Q. Sometimes the *maraca* would stay at the house and would be
3 passed between workers?

4 A. Yes.

5 Q. Did you also have your own personal cell phone?

6 A. Yes.

7 Q. All right. That was different than the *maraca*?

8 A. Yes.

9 Q. So if, for example, when Pistolita was the runner on
10 Burbank, how would he communicate that the workers in the
11 house were getting low on the drugs they were selling from?

12 A. He call on the *maraca*.

13 Q. And who would he call?

14 A. He call my brother, he call Lei.

15 Q. All right. And then you or Lei or your brother would
16 deliver drugs to the runner?

17 A. Yes.

18 Q. All right. You previously testified that at different
19 times during the course of this operation individuals came or
20 left; is that right?

21 A. Yes.

22 Q. And that some of those individuals were arrested; is that
23 right?

24 A. Yes.

25 Q. Was there any understanding among the members of the

1 operation that Javi would help them out if they were arrested?

2 A. What do you mean?

3 Q. Well, did you as a member of this operation have an
4 understanding that if you or another worker got arrested, that
5 Javi would help you out?

6 A. Yes.

7 Q. And what was that understanding?

8 A. He got a lawyer that Leitscha used to work in his office,
9 she used to be a clerk for his office, one time she work for a
10 little bit. Mark Young -- his lawyer called Mark Young, and
11 he tell us you get arrested, he gonna represent you.

12 And the reason why he chose Mark Young because Mark
13 Young don't represent no rats, he don't represent no rats.

14 **MR. VERRILLO:** Objection as to the reason why.

15 **THE COURT:** There's an objection?

16 **MR. VERRILLO:** Objection as to the reason why.

17 **THE COURT:** To what?

18 **MR. VERRILLO:** In his answer -- his answer was --
19 he's trying to give a reason why he was using that attorney.

20 **THE COURT:** Sustained as to that part of the answer,
21 yes. Go ahead.

22 **BY MR. MARANGOLA:**

23 Q. Mr. Figueroa, did Javi tell you the reason why he would
24 hire Mark Young to represent members of the operation if they
25 were arrested?

1 A. Yes.

2 Q. Can you tell the jury what Javi told you in that regard?

3 A. My brother told me that he trust Mark Young because Mark
4 Young told him he don't represent no rats or people who
5 gonna --

6 **MR. VERRILLO:** Objection.

7 **THE WITNESS:** -- testify.

8 **THE COURT:** Overruled.

9 **MR. VERRILLO:** Objection as to what someone else
10 said.

11 **THE COURT:** No, he's saying what Javi told him.
12 Overruled.

13 **BY MR. MARANGOLA:**

14 Q. You can continue your answer.

15 A. My brother tell us -- tell me that the reason why he use
16 Mark Young because Mark Young say he don't represent nobody
17 who is testifying or who is a rat. So he feel comfortable
18 with him; if anybody get arrested, Mark Young represent him.
19 He know the guy is not gonna snitch. So he trust Mark Young
20 in that aspect.

21 Q. So who would pay for Mark Young to represent individuals
22 of the operation if they were arrested?

23 A. My brother.

24 Q. All right. Did you ever meet or deal with Mark Young
25 yourself?

1 A. I went to his office with Lei and my brother. We went to
2 his office when Pistolita got arrested.

3 Q. Do you recall what your brother discussed?

4 A. They went to the office, they was talking. They went to
5 the office. I was just sitting there.

6 Q. All right. You didn't participate in that discussion?

7 A. No. They went in there with Lei.

8 Q. After who got arrested?

9 A. Pistolita.

10 Q. The defendant?

11 A. Yes.

12 Q. I'm going to show you Government's Exhibit 29. Do you
13 recognize the person shown in Government's 29?

14 A. It's not showing up.

15 Q. I'm sorry. It's Government's 29 in evidence.

16 **THE COURT:** Is it in evidence? It is.

17 **THE CLERK:** Yes.

18 **THE COURT:** It is.

19 **BY MR. MARANGOLA:**

20 Q. Is that on your screen down there, Mr. Figueroa?

21 A. No. Now it is.

22 Q. Do you recognize the individual shown in Government's
23 Exhibit 29?

24 A. Yes.

25 Q. Who do you recognize that to be?

1 A. That's Mark Young, the lawyer.

2 Q. And is that the lawyer that Javi paid to represent members
3 of his operation if they were arrested in connection with
4 their drug dealing?

5 A. Yes.

6 Q. All right. Mr. Figueroa, were there ever occasions that
7 you're aware of where members of the operation were arrested
8 and Javi did not provide an attorney?

9 A. Not that I know of.

10 Q. Okay. If we could go back to Government's Exhibit 35. You
11 testified that Burbank Street was the area where -- one of the
12 areas where Javi's group operated; is that right?

13 A. Yes.

14 Q. Now, did other drug dealers that were not part of Javi's
15 operation deal drugs on Burbank Street?

16 A. No.

17 Q. There were no, like, no independent operators selling
18 drugs on Burbank Street?

19 A. No.

20 **MR. VERRILLO:** Objection, leading.

21 **THE COURT:** Overruled.

22 **BY MR. MARANGOLA:**

23 Q. Were there any like freelance drug dealers selling drugs
24 on Burbank?

25 A. No.

1 Q. No stand alones selling their own product on Burbank?

2 A. No. They get in trouble.

3 Q. When you say "get in trouble," what do you mean?

4 A. Like when Tapon kill the guy trying to sell drugs on
5 Burbank. You trying to sell drugs in somebody else's spot,
6 it's gonna be a problem.

7 Q. Can you slow that down? I don't know if Ms. Macri did,
8 but I didn't get that.

9 A. Like with the problem with the guy trying to sell drugs on
10 Burbank one time and Tapon killed him because he was trying to
11 sell drugs. You cannot go to somebody else's spot, drug spot
12 and try to sell. There's going to be a problem.

13 Q. So Javi didn't let other people sell drugs on Burbank that
14 weren't part of his operation?

15 A. No.

16 Q. Can you tell us about -- you already mentioned about this
17 thing where Tapon and the guy on North Clinton and Burbank?

18 A. Yes.

19 Q. Can you tell us any other examples of how Javi dealt with
20 others either attempting to sell drugs in the Burbank area or
21 causing a problem with his workers?

22 **MR. VERRILLO:** Objection.

23 **THE COURT:** Overruled. Go ahead, you can answer
24 that.

25 **THE WITNESS:** Yes, it was a situation where Pepe, he

1 was -- he will go with Yankee and Cano, they came from
2 Puerto Rico, so he used to work for my brother, they used to
3 have flip phone and he used to have some customers' phone
4 numbers in it. And then he got fired; he stopped working with
5 my brother.

6 Q. I'm sorry to interrupt you. Who got fired?

7 A. Pepe.

8 Q. Pepe got fired?

9 A. Yes.

10 Q. From working for your brother?

11 A. Yes.

12 Q. What happened?

13 A. And they tell my brother -- Vic and Obed tell my brother
14 that he was stealing customers because he got the phone number
15 of the customers that he would -- like they call that moving
16 the block. You get the customers from Burbank trying to move
17 them somewhere else, and my brother get -- give the green
18 light for Pepe to get killed.

19 Q. Let me show you Government's Exhibit -- I'm going to show
20 you what's not in evidence as Government's 21. Do you
21 recognize the person shown in Government's 21?

22 A. Yes.

23 Q. Who do you recognize the person in Government's 21 to be?

24 A. That's Pepe.

25 Q. All right. Government's 21 fairly and accurately show the

1 person you knew as Pepe?

2 A. Yes.

3 Q. And Pepe was -- for a period of time was working for your
4 brother?

5 A. Yes.

6 **MR. MARANGOLA:** At this time I offer Government's
7 21.

8 **MR. VERRILLO:** No objection.

9 **THE COURT:** Exhibit 21 will be received.

10 (WHEREUPON, Government Exhibit 21 was received into
11 evidence).

12 **BY MR. MARANGOLA:**

13 Q. All right. Now, when you say that your brother gave Vic
14 and Obed the green light to kill Pepe for trying to move the
15 block, were you present when your brother did that?

16 A. Yeah, when they was talking about it, yes.

17 Q. Can you describe for the jury where that occurred that
18 your brother gave the green light and where they were
19 discussing it?

20 A. It was -- it was -- I think it was -- I don't recall what
21 house we was working, and they brought that to my brother and
22 my brother put a thumb's down.

23 Q. You just made a gesture with your hand in front of your
24 face pointing your thumb down?

25 A. Yeah, thumb down.

1 Q. When you say you were "working," what were you doing
2 working?

3 A. We was working at the table bagging up.

4 Q. So on an occasion when you were working the table, that's
5 when your brother gave the thumb's down to Vic and Obed?

6 A. Yes.

7 Q. And you understood that to mean to kill Pepe?

8 A. Yes.

9 Q. And the purpose of -- or the reason for that was Pepe was
10 trying to take customers from Burbank?

11 A. Yes.

12 Q. And then what happened to Pepe?

13 A. Well, they was trying to kill Pepe, but they confuse
14 Pepe's brother like it was Pepe, and Vic shot him up by
15 mistake thinking it was Pepe.

16 Q. All right. I'm going to show you Government's Exhibit 20.
17 Do you recognize who is in Government's 20?

18 A. Yes.

19 Q. Who is that?

20 A. That's Nino. That's Pepe's brother.

21 Q. All right. And now you said that Pepe's brother here shown
22 in Government's 20, he was killed by mistake?

23 A. Yes.

24 Q. How do you know that?

25 A. Because they was talking about it.

1 Q. Who?

2 A. Vic and Obed was telling my brother after it happened and
3 they was explaining to my brother -- they was arguing with
4 each other, Vic and Obed, and Obed was screaming that's not
5 Pepe, but it was too late. Vic shot --

6 Q. Who shot -- who shot Pepe's brother?

7 A. Vic.

8 Q. And Vic and Obed were telling Javi about it?

9 A. Yes.

10 Q. Where did that occur?

11 A. It occurred on Burbank.

12 Q. And you were present while they were talking about it?

13 A. Yes.

14 Q. All right. Any other examples how Javi dealt with others
15 that were causing a problem with customers of his or workers
16 of his on Burbank?

17 **MR. VERRILLO:** Objection.

18 **THE COURT:** Overruled. Go ahead.

19 **THE WITNESS:** Yes.

20 **BY MR. MARANGOLA:**

21 Q. I'm sorry, before you go on to that, did they tell you
22 where Vic and Obed -- did they say where they killed Pepe's
23 brother?

24 A. Yes.

25 Q. Where?

1 A. Leo.

2 Q. On Leo Street?

3 A. On Leo Street, yeah.

4 Q. And did they say how they killed Pepe's brother?

5 A. Yeah, they said he came out of the house wearing one of
6 Pepe's jacket. That's why he looked like Pepe. And Vic start
7 shooting at him; he was with a white girl, I think it was his
8 girl friend, and she was screaming they killed him.

9 Q. All right. Do you remember when this occurred?

10 A. Do I remember when it occurred? I don't remember the
11 year.

12 Q. You don't remember the year?

13 A. No.

14 Q. Do you remember who was at the table when Javi gave the
15 thumb's down, the green light for the murder of Pepe?

16 A. It was me, Lei, I think it was Naldi, yeah.

17 Q. All right. And then Vic and Obed were there talking about
18 it to Javi?

19 A. Yes.

20 Q. And as far as you remember that was it?

21 A. Yes.

22 Q. All right. I had asked you were there any other occasions
23 when you were about to say another one and I interrupted you.

24 A. Yes. Pistolita was doing business -- he was going to sell
25 him -- was gonna sell him some -- I think it was 10 or 12

1 grams of heroin, and he sent one of his boys to go serve
2 Gargola's peoples and they robbed him.

3 Q. I'm sorry, who sent --

4 A. Pistolita sent one of his people to sell --

5 Q. The defendant?

6 A. Yes. To sell one of Gargola people, it was like 10 or 12
7 grams of heroin. He was telling my brother they came with
8 some masks and robbed the guy of the dope. Pistolita was
9 pissed off. He took -- he took that personal.

10 **MR. VERRILLO:** Objection, lack of foundation.

11 **THE COURT:** Sustained the last part of the answer.

12 **BY MR. MARANGOLA:**

13 Q. Where is this conversation that you're talking about
14 happening first of all?

15 A. The conversation happened in General Hospital apartment.

16 Q. All right. And that conversation is between who?

17 A. Pistolita and my brother.

18 Q. Who else is there?

19 A. I'm there, Vic was there, Lei was there.

20 Q. All right. What did the defendant say to your brother
21 about how he felt about the fact that people he sent to
22 Gargola got robbed?

23 A. He was mad. He gonna get them. He say he gonna get them.

24 Q. All right. Did you know who Gargola was?

25 A. Yes.

1 Q. At this time I like to show you Government's Exhibit 22.
2 That's in evidence. Do you recognize who is shown in
3 Government's 22?

4 A. Yes.

5 Q. Who is that?

6 A. That's Gargola.

7 Q. All right. After Pistolita told Javi about one of his
8 workers getting robbed in relation to Gargola, what happened?

9 A. Well, my brother was like handle the situation.

10 Q. You just again put your hand up near your face and pointed
11 your thumb down; is that right?

12 A. Yes.

13 Q. When your brother gave the thumb's down and said handle
14 the situation, what did you understand him to mean?

15 A. That mean to kill him.

16 Q. And what was Pistolita's reaction or response to that?

17 A. All right, okay. He left.

18 Q. And what happened after that?

19 A. Then after that the next time I heard about it he was --
20 him and Vic was telling my brother --

21 Q. Who is him?

22 A. Pistolita and Vic was telling my brother what happened.

23 Q. Where did that occur?

24 A. In the apartment, General apartment.

25 Q. What did you hear the defendant and Vic telling your

1 brother about what happened to Gargola?

2 A. He was telling my brother --

3 Q. I'm sorry. Each time you say "he" I'm gonna stop you so
4 we're clear. Who?

5 A. Pistolita was telling my brother that he was watching
6 Gargola argue with his girl, he was watching them for a
7 minute. Gargola was arguing with his girl, she was coming up
8 and down from the second floor because it's like next to my
9 brother house. He was watching them.

10 And Gargola was drinking. Gargola went to
11 McDonald's, got some McDonald's. Came back. His girl came
12 down again, they was arguing again. She went upstairs.

13 Pistolita went to the side of the building, to the
14 left side and shot him through the window, and Vic was looking
15 out for him.

16 Q. Where did that -- did they say where that occurred?

17 A. On Burbank.

18 Q. All right. Did you know where Gargola lived at that time?

19 A. Yes.

20 Q. Where?

21 A. He live right on top of the store right in Burbank.

22 Q. All right. I'm gonna show you Government's Exhibit 35. Do
23 you see the area where Gargola was living at that time shown
24 on Government's 35?

25 A. It's a building. Here by the end.

1 Q. All right. Why don't you describe where the building was
2 in relation to your brother's house at 6 Burbank?

3 A. Right on the corner. Because it's a one-way street, right
4 on the corner by the stop sign. The stop sign is on the right
5 side. On the left side is the building right there. He live
6 right on top of the store.

7 Q. So across the street from your brother's house on 6
8 Burbank?

9 A. Yes.

10 Q. And closer toward North Clinton Avenue?

11 A. Yes.

12 Q. Okay. In the building there?

13 A. In the building right there, right in front of it.

14 Q. All right. And you previously testified about Tapon
15 killing an individual. Is the location that Tapon shot and
16 killed an individual because he was trying to take customers
17 from Javi, is that shown on Government's 35? Are you trying
18 to touch the screen?

19 A. It's on the right side by the stop sign right on Burbank
20 on the right side right in front of the other store.

21 Q. Intersection of Burbank and what?

22 A. Burbank and North Clinton.

23 Q. Burbank and North Clinton?

24 A. Yes.

25 Q. All right. Now, did you learn about murders or any murder

1 that occurred outside of this Burbank area that was committed
2 for Javi by members of this operation?

3 A. Yes.

4 Q. And what murder is that?

5 A. That's the murder of Flaco - Paulo.

6 Q. All right. If we could go to Government's Exhibit 1.

7 Which individual is Flaco that you're referring to? All
8 right, you've placed a mark on the individual with the red
9 T-shirt at the bottom -- in the bottom row of Government's 1?

10 A. Yes.

11 Q. All right. Can you tell us how you came to learn about
12 the murder of Flaco?

13 A. Yes. We was on 75 Mead Street.

14 Q. Mead Street?

15 A. Mead Street.

16 Q. What was at 75 Mead Street?

17 A. My brother house, my brother house.

18 Q. Your brother owned a house at 75 Mead Street?

19 A. Yes.

20 Q. All right. Who was at 75 Mead Street on this occasion?

21 A. Who was renting the house or --

22 Q. On the occasion when you learned -- you started to talk
23 about what happened at 75 Mead Street. Who was there that
24 day?

25 A. I was there, Lei was there, and it was an emergency

1 because we never bagged up in the house. It was an emergency
2 because we was running low. Lei brought the book bag and we
3 was bagging up.

4 And Pistolita showed up with Vic and they tell my
5 brother that Flaco, he was playing both sides of the fence.
6 That he was hanging out with one victim family member who live
7 on North Clinton, a lesbian chick. They don't trust them,
8 they know too much. And my brother give him the okay to deal
9 with Flaco.

10 Q. Again you raised your hand and pointed your thumb down?

11 A. Yes.

12 Q. Your brother did that?

13 A. Yes.

14 Q. And who had told your brother they were suspicious about
15 Flaco during that discussion?

16 A. Pistolita and Vic.

17 Q. And after they told your brother they were suspicious of
18 Flaco, your brother gave that thumb's down gesture again?

19 A. Yes.

20 Q. And what did you understand him to mean by that?

21 A. They was gonna kill him. My brother give the order, give
22 him the green light.

23 Q. And what was Pistolita and Vic's reaction to that?

24 A. Normal. Like they know what to do.

25 Q. Now, that was the same or different conduct that Javi had

1 engaged in before the murder of Pepe's brother, the signal
2 that Javi gave for Flaco? Was that the same or different
3 signal that he gave?

4 A. The same, put a thumb down.

5 Q. Was that the same or different signal that he gave when
6 Pistolita talked to him about what happened with Gargola?

7 A. No, the same thumb down.

8 Q. All right. Did there come a time after that where you
9 found out that Flaco was killed?

10 A. Yes.

11 Q. Can you tell us when was that? How long after Javi gave
12 the thumb's down order?

13 A. It was not long. Like less than a week.

14 Q. Less than a week?

15 A. Yes, it was not long.

16 Q. Not long?

17 A. No.

18 Q. Tell us where you were and how you found out what happened
19 to Flaco.

20 A. We was at the General Hospital apartment, we was bagging
21 up with Lei, me, my brother, Naldi was there, and Vic showed
22 up first and we was -- we was there, and we was getting the
23 stuff to bag up, and Vic was mad at Pistolita.

24 Q. Who was mad at Pistolita?

25 A. Vic.

1 Q. And I think you pointed him out, it's been a while. Who
2 is Vic on Government's Exhibit 1?

3 A. That's him right there.

4 Q. All right. And Vic said that he was mad at the defendant?

5 A. Yes.

6 Q. Did he say why?

7 A. Yes.

8 Q. What did Vic say about why he was mad at Pistolita?

9 A. He said he was mad at Pistolita because when they was in
10 Buffalo and they took Flaco down there, they lied to him, they
11 took him down there and when they took him to the alley, Vic
12 pulled the trigger; and after the murder of Flaco, Pistolita
13 told Vic that he was gonna come back and tell my brother he
14 did it himself.

15 Q. Pistolita told Vic that Pistolita was gonna tell Javi that
16 Pistolita was the trigger man?

17 A. Yes, he was gonna tell him he go back, I'm gonna tell him
18 that I did it. And Vic got mad. No, I'm the one who did it,
19 you not gonna take credit for that. I'm the one that did it.

20 Q. All right. And what happened after Vic said that?

21 A. We was bagging up, doing the same thing we do, and my
22 brother showed up. Pistolita showed up. And they told the
23 whole story. That's when the --

24 Q. Can you describe -- when you say they told the whole
25 story, they told the whole story of what?

1 A. How they killed Flaco.

2 Q. Can you tell the jury what Pistolita, the defendant, and
3 Vic said about how Flaco was murdered?

4 A. They was talking about how they lied to Flaco, saying that
5 they was gonna go to Buffalo to one of they blocks because
6 they was beefing with people, that he was gonna go over there
7 on a mission with them to help them out.

8 And they was making a joke, they was laughing
9 saying Flaco asked for a phone so he can call his family and
10 they ain't let him call his family. So they lure him to a
11 house --

12 Q. I'm sorry, I didn't catch that. They what to a house?

13 A. They lure him to a house.

14 Q. Lured him to a house?

15 A. Yes.

16 Q. Okay, sorry, lured him to a house?

17 A. Yes. To a alley -- to a alley next to a house, and Flaco
18 was walking in front of them and when Flaco turn around, Vic
19 was pointing the gun at him, at his face. Flaco try to reach
20 for the gun, try to fight back, Vic was shooting at him and
21 then they say shot him in the face and killed him.

22 Q. Did Vic or Pistolita say that while they're in this alley
23 Flaco made any statements or said anything?

24 A. Yes.

25 **MR. VERRILLO:** Objection, leading.

1 **THE COURT:** Overruled. Go ahead.

2 **THE WITNESS:** Yes.

3 **BY MR. MARANGOLA:**

4 Q. What did Vic and Pistolita say that Flaco said while he
5 was in that alley?

6 A. Flaco said -- Flaco said I know this was fucking gonna
7 happen.

8 Q. He said what?

9 A. I know this was fucking going to happen.

10 Q. I know this was going to fucking happen?

11 A. Yes.

12 Q. Can you describe Vic and the defendant's demeanor while
13 they were talking about the murder of Flaco?

14 A. They was -- they was happy. They was joking about it,
15 like it was nothing.

16 Q. What was Javi's reaction?

17 A. My brother is like he called -- he's like nothing. It
18 happens, it happens.

19 Q. All right. And Flaco had been a member of this operation;
20 is that right?

21 A. Yes.

22 Q. Now, I'm going to show you what is not in evidence as
23 Government's 193. Mr. Figueroa, do you see Government's 193?

24 A. Yes.

25 Q. Do you recognize the individual shown in Government's 193?

1 A. Yes.

2 Q. Who is that?

3 A. That's Flaco.

4 Q. And is the person shown in Government's 193 the person you
5 previously identified as Flaco or Paulo or Palito wearing the
6 red shirt in the previous photograph?

7 A. Yes.

8 Q. All right. In this photograph there's a hand next to his
9 head with a tag and a number on it; is that right?

10 A. Yes.

11 Q. Okay. You recognize the person in Government's 193 as the
12 one you knew as Flaco?

13 A. Yes.

14 Q. Thank you. All right. Now, did you see the defendant
15 after the occasion -- did you see Pistolita after the occasion
16 where he and Vic talked about -- well, actually before I get
17 to that.

18 Gargola -- you talked about how Gargola was killed?

19 A. Yes.

20 Q. How was he actually killed? Like what was the way he
21 died?

22 A. The way he died, Pistolita went to the side of the car --
23 side of the building and shot him through a window.

24 Q. When Tapon killed Walter Ross -- killed a guy on the
25 corner of North Clinton and Burbank, how did Tapon kill him?

1 A. Tapon told one of the fiends to call him to let him know
2 when the guy -- if he see the guy again by Burbank to call
3 him. And the fiend guy called him saying he was there.

4 He put a hoodie on, he went to the side and shot
5 him through the window of the car.

6 Q. Tapon shot him?

7 A. Yes.

8 Q. And how did Pepe -- how was Pepe's brother killed?

9 A. Pepe's brother got killed -- they was waiting for him, Vic
10 and Obed, they wait for him to come out of the house. They
11 thought he was Pepe, and Vic walk up to him and shot him up.

12 Q. Pepe's brother was killed by Vic shooting him?

13 A. (Nods head).

14 Q. And Flaco was killed by being shot as well?

15 A. Yes.

16 Q. Okay. Did you see the defendant after the occasion where
17 he and Vic were talking about how they killed Flaco? Did you
18 see the defendant after that?

19 A. Yes, I saw him after that.

20 Q. Can you describe how many times did you see him after
21 that?

22 A. I saw him a few more times after that. He was still
23 working as a runner, and Vic was still working out of the
24 houses.

25 Q. Where was the defendant a runner at that point?

1 A. What?

2 Q. Where was the defendant working as a runner at that point?

3 A. Burbank.

4 Q. All right. Did there come a time when you didn't see the
5 defendant anymore?

6 A. No.

7 Q. I guess that wasn't a good question. Did you continue to
8 work with the defendant and Javi's drug operation all the way
9 up until your arrest?

10 A. No.

11 Q. All right. So there came a time when you didn't see the
12 defendant anymore?

13 A. No.

14 Q. Where was the -- after the Rochester General apartment
15 when you were bagging drugs, where was the next location that
16 you -- that the organization moved to bagging drugs?

17 A. From the General apartment, Culver Road.

18 Q. Culver Road?

19 A. Yes.

20 Q. All right. And after that did there come a time when you
21 went to go pick up guns with Javi from any particular
22 location?

23 A. Yes.

24 Q. Can you tell us when was that?

25 A. That was in 2016.

1 Q. Was that before or after Vic and Pistolita talked about
2 murdering Flaco?

3 A. After they murdered Flaco.

4 Q. How did it come about?

5 A. My brother said to go with him and Lei to go to -- we got
6 to get something from Pistolita. And Pepe -- Pepone, the one
7 driving the U-Haul truck for Lei, we was following the U-Haul
8 truck.

9 Q. Hold on a second. I'm sorry. Your brother said you had
10 to go to Buffalo to pick something up from Pistolita?

11 A. Yes.

12 Q. And he told you that in Rochester?

13 A. Yes.

14 Q. And what happened after that?

15 A. And we left. We follow the U-Haul truck that Pepone was
16 driving with Lei. We was driving to Buffalo. We went to
17 7-Eleven where Pistolita girl work at.

18 Q. Before you got to 7-Eleven had your brother talked to you
19 about what you were going to pick up from Pistolita in
20 Buffalo?

21 A. Yes.

22 Q. What did your brother tell you you were going to pick up
23 in Buffalo?

24 A. Before we got to 7-Eleven he say we gonna get some guns
25 from Pistolita.

1 Q. He said you were going to get some guns from Pistolita?

2 A. Yes.

3 Q. Then you went to a 7-Eleven?

4 A. Yes.

5 Q. Did you see Pistolita at the 7-Eleven?

6 A. No.

7 Q. Where was Pistolita?

8 A. Pistolita was in jail.

9 Q. He was in jail at the time?

10 A. Yes.

11 Q. Who did you see at the 7-Eleven in Buffalo?

12 A. Well, my brother step out of the truck, he went inside,
13 then his wife came out.

14 Q. Whose wife?

15 A. Pistolita wife came out.

16 Q. All right. I'm going to show you Government's 92. Do you
17 recognize the person, the female shown in Government's 92?

18 A. Yes.

19 Q. Who do you recognize that to be?

20 A. That's Pistolita girl.

21 Q. All right. Was that the woman you spoke to or that you
22 saw outside the 7-Eleven on the occasion when you went to
23 Buffalo to pick up guns from Pistolita?

24 A. Yes. I ain't spoke to her. My brother spoke to her.

25 Q. She didn't talk to you? She talked to Javi?

1 A. Yes.

2 Q. Did you see her?

3 A. Yes.

4 Q. Okay. All right. Please continue about what happened.

5 A. Then after that they was talking to Lei, my brother went
6 to talk to Lei, and they took off in a U-Haul truck. We was
7 following the U-Haul truck and we went to this house. A lady
8 came out, parked right in front of it, U-Haul truck. They
9 step out, Pepone step out, they went to the side of the house
10 with the lady and Pepone was carrying a big duffle bag, black
11 duffle bag.

12 Q. Can you describe the duffle bag you saw Pepone carrying?

13 A. Big duffle bag, black duffle bag.

14 Q. For the record you held your hands what? Few feet apart?

15 A. Yes.

16 Q. All right. And it was black?

17 A. Yes.

18 Q. Did it appear light or heavy?

19 A. Heavy. Pepone was carrying it.

20 Q. Okay. And you saw Pepone carry that bag from the side of
21 the house?

22 A. Yes, Pepone, yes.

23 Q. Where were you when you saw that?

24 A. I was in the truck with my brother.

25 Q. Where was Lei?

1 A. Lei was with him. Lei walk with him with the girl.

2 Q. What did Pepone do with the heavy black duffle bag?

3 A. He open the back of the U-Haul truck, put it in the -- he
4 open the back of the U-Haul truck, put the duffle bag in
5 there, close the thing, and we follow them all the way to
6 Rochester.

7 Q. So Pepone got that heavy black duffle bag from the side of
8 the house in Buffalo?

9 A. Yes.

10 Q. Do you know what the address was?

11 A. No.

12 Q. Had you ever been there before?

13 A. No.

14 Q. After putting it in the U-Haul truck, the U-Haul as well
15 as Javi's vehicle with you in it went where?

16 A. To Rochester, back to Rochester.

17 Q. What happened when you got back to Rochester?

18 A. We got to Rochester, Clinton Avenue. They took a right,
19 they went somewhere else. We went to Burbank to my brother
20 house.

21 Q. You and Javi went to your brother's house?

22 A. Yes.

23 Q. Did you ever end up seeing the black bag again?

24 A. No.

25 Q. Okay. Now, did there come a time when you learned of a

1 break-in at the Culver Road stash apartment that was being
2 used by the organization?

3 A. Yes.

4 Q. And was this after the occasion when you went to pick up
5 the guns from Pistolita?

6 A. What do you mean?

7 Q. When you learned about the burglary at the Culver Road
8 apartment, was that before or after the time you went to
9 Buffalo to get the guns from Pistolita?

10 A. It was after.

11 Q. All right. So approximately when was it, if you know, that
12 you became aware there was a break-in at the Culver Road stash
13 apartment?

14 A. It was 2016.

15 Q. It was in 2016?

16 A. Yes.

17 Q. Do you recall when?

18 A. No.

19 Q. Okay. But it was after you went to get the guns?

20 A. Yes.

21 Q. All right. How did you learn about the break-in at the --
22 if we could put up 54? That's the Culver Road building where
23 you had a stash apartment?

24 A. Yes.

25 Q. All right. How did you learn that there had been a

1 break-in at the stash apartment used by the operation at
2 Culver Road?

3 A. From my brother.

4 Q. Tell us what happened.

5 A. My brother Javi call me on the *maraca* and told me I got to
6 go with him. He was gonna pick me up to go to Culver because
7 Ishmael call him saying somebody broke in.

8 Q. All right. And did you know who Ishmael was?

9 A. Yes.

10 Q. Had you ever seen Ishmael before?

11 A. Yes.

12 Q. Were you aware of what Ishmael's relationship with Javi
13 was?

14 A. Yes.

15 Q. I'm going to show you Government's 160 -- I'm sorry, 16.
16 Do you recognize the person shown in Government's 136?

17 A. Yes.

18 Q. Who is that?

19 A. That's Ishmael.

20 Q. All right. What did your brother say when he called you
21 that day about the Culver Road apartment break-in?

22 A. He say Ishmael call him saying somebody broke into the
23 apartment, we got to go down there. I went down there with my
24 brother, me, Javi and Lei. We went down there -- and Tapon.
25 And Ishmael let us --

1 Q. I'm sorry to interrupt. Ms. Rand, could you show them --
2 16 is in evidence, I believe, thank you.

3 **THE CLERK:** Yes.

4 **BY MR. MARANGOLA:**

5 Q. All right. This is Ishmael, Mr. Figueroa?

6 A. Yes.

7 Q. All right. What was Ishmael's relationship with Javi?

8 A. My brother say he love him like a brother.

9 Q. Did Ishmael do anything for your brother?

10 A. Yes.

11 Q. What did Ishmael do for Javi?

12 A. Because when he introduce me to Ishmael, he say he going
13 to introduce me to -- like he love him like his brother. I
14 saw this big black guy and I say -- and he told me that he was
15 in 699 East Main, they found some bullets in his apartment --
16 police found some bullets, and they were going to lock him up
17 and Ishmael talk to one of his workers, pay him a thousand
18 dollars to say he was the one that planted it there. The guy
19 got charged instead of my brother because Ishmael saved him.

20 Q. All right. On this occasion when Javi called you about
21 the Culver Road building, what did Javi tell you?

22 A. That they broke into the apartment.

23 Q. What did you do?

24 A. I left with him.

25 Q. With who?

1 A. With my brother Javi.

2 Q. Where did you go?

3 A. And Lei, we went to Culver Road.

4 Q. What happened when you went to Culver Road?

5 A. It was me, Lei, my brother Javi, and Tapon. Ishmael open
6 the back door, we went to the basement, and he show us a video
7 of who was the one that broke in.

8 Q. Did you watch the video that Ishmael showed you?

9 A. Yes.

10 Q. Did you recognize anyone in any of the video that Ishmael
11 showed you?

12 A. Yes.

13 Q. Who did you recognize?

14 A. I recognize Axel.

15 Q. And tell us what happened after -- who is watching the
16 video that Ishmael was showing?

17 A. It was Ishmael, my brother Javi, me, Lei, Tapon.

18 Q. All right. And if we could go to Government's Exhibit 1.
19 Who did you see in the video -- show us in Government's
20 Exhibit 1 who you saw on the video. All right, and you made a
21 mark on the third row, second from the left; is that right?

22 A. Yes.

23 Q. And that's Axel?

24 A. Yes.

25 Q. And who is watching the video? You touch the pictures and

1 show who was watching. All right, the last mark that we have
2 here is on the far right on the third row?

3 A. Yes.

4 Q. That's who?

5 A. Tapon.

6 Q. All right. Tell us what happened after you, Lei, Javi and
7 Tapon watched the video showing Axel.

8 A. We watched the video and Lei made a comment saying the
9 other guy don't show the face, he look like Obed. And my
10 brother send us to go get Obed because Cabra showed up -- a
11 few minutes after that Cabra showed up. That's Tapon
12 right-hand man.

13 Q. Cabra?

14 A. Cabra.

15 Q. C-A-B-R-A?

16 A. Yes.

17 Q. Cabra showed up?

18 A. Yes.

19 Q. What did the video show Axel doing?

20 A. Show his face when they was breaking in, and they show him
21 running with some book bags.

22 Q. It showed him on the side of the building?

23 A. Yes.

24 Q. And then showed him running from the building with book
25 bags?

1 A. Yes.

2 Q. All right. Why did -- why were you told to get Obed
3 instead of Axel?

4 A. Because Obed is the one introduced Axel to my brother and
5 they know each other from Puerto Rico. So my brother was
6 holding him kind of responsible. Plus the comment Lei made,
7 so go get Obed. So that's his friend, to go look for Axel.

8 Q. And did you go with anyone to get Obed?

9 A. Yes.

10 Q. Before we get into that, did you go to the apartment --
11 the stash apartment that morning?

12 A. No.

13 Q. Describe what, if anything, was taken from the stash
14 apartment.

15 A. My brother told me what was missing.

16 Q. What did your brother tell you was missing from the stash
17 apartment at Culver Road?

18 A. He say it was a kilo of heroin and some TEC-9s.

19 Q. All right. Did you go find Obed as you were instructed by
20 Javi?

21 A. Yes.

22 Q. Who went with you?

23 A. Me, Cabra and Tapon.

24 Q. After you got Obed what did you do?

25 A. We was driving around. Obed was taking us to different

1 places driving around looking for him.

2 Q. Looking for what?

3 A. Looking for Axel.

4 Q. All right. Did you end up -- why were you looking for
5 Axel that day?

6 A. To bring him to my brother.

7 Q. Did you end up finding Axel that day?

8 A. No.

9 Q. Did you end up speaking to any relatives or family of Axel
10 that day trying to find him?

11 A. Yes.

12 Q. Who did you speak to?

13 A. I spoke to his mom, and I spoke to his sister, and his
14 girl.

15 Q. All right. You end up not finding him that day?

16 A. No.

17 Q. Did there come a time that next day when you learned about
18 anyone getting arrested or shot?

19 A. Yes.

20 Q. Can you tell us what you learned and how you learned it?

21 A. I learned it because my brother tell me. I came from
22 work. He said that they found where Axel was at, he was on
23 Miller Street.

24 Q. I'm sorry, they found Axel where he was at?

25 A. Yes.

1 Q. On what street?

2 A. Miller.

3 Q. Miller?

4 A. Miller Street, yeah.

5 Q. Okay.

6 A. They gave him a tip telling where he was at. Tapon, Obed,
7 Cabra, my brother and Lei they went down there. And Obed was
8 about to knock on the door and Axel start shooting through the
9 door and shot Obed on purpose.

10 Q. And your brother told you this is what happened?

11 A. Yes.

12 Q. That Axel shot from a house on Miller?

13 A. Yes, shot Obed.

14 Q. And shot Obed?

15 A. Yes.

16 Q. And you said your brother told you this after you came
17 from where?

18 A. From work.

19 Q. Where were you working?

20 A. I was working at LiDestri.

21 Q. So it sounded like you didn't come from working the table?

22 A. No. LiDestri.

23 Q. All right. So you had been at work all day?

24 A. Yes.

25 Q. What did you do after your brother told you that Obed had

1 been shot by Axel?

2 A. We went to the hospital.

3 Q. And what happened there?

4 A. We went to the hospital, I spoke to Obed. Obed admit that
5 he was -- that he was the one with Axel that stole the stuff.

6 Q. And what happened after that?

7 A. We just -- we left.

8 Q. Did Javi or anyone say anything about what happened to
9 Axel that day?

10 A. Axel got arrested.

11 Q. Axel got arrested?

12 A. Yes.

13 Q. Where was Axel arrested?

14 A. At the house he shot through the door. He stayed until
15 the police came.

16 Q. On what street?

17 A. Miller Street.

18 Q. All right.

19 **MR. MARANGOLA:** Judge, if I could have a moment?

20 **THE COURT:** This would be a good time to take a
21 short break.

22 **MR. MARANGOLA:** Thank you.

23 **THE COURT:** Ladies and gentlemen, at this time we're
24 going to take a short recess. In the meantime do not discuss
25 the matter or allow anybody to discuss the matter with you.

1 Jury may step down, we'll stand in recess.

2 (WHEREUPON, there was a pause in the proceeding.)

3 (WHEREUPON, the defendant is present; the jury is
4 present).

5 THE COURT: You may proceed.

6 MR. MARANGOLA: Thank you, Your Honor.

7 BY MR. MARANGOLA:

8 Q. Mr. Figueroa, you testified earlier that you were home at
9 292 Barrington on the day of your arrest; is that right?

10 A. Yes.

11 Q. And the police took a number of firearms as well as
12 quantities of cocaine out of your house; is that right?

13 A. Yes.

14 Q. I'd like you to take a look at what's in evidence as
15 Government's 296. You see Government's 296?

16 A. Yes.

17 Q. Do you recognize what's shown in that photograph?

18 A. Yes.

19 Q. What is that?

20 A. That's a .40, a pistol.

21 Q. A .40 caliber pistol?

22 A. Yes.

23 Q. Was that in your bedroom at 292 Barrington on the day of
24 your arrest?

25 A. Yes.

1 Q. And I'd like to show you Government's 297. Do you
2 recognize what that is?

3 A. Yes.

4 Q. What's shown in 297?

5 A. That's a revolver.

6 Q. There's a revolver in the center of that photograph?

7 A. Yes.

8 Q. And that was also in your bedroom on the day of your
9 arrest?

10 A. Yes.

11 Q. Who owned those guns?

12 A. My brother Javi.

13 Q. All right. Same thing with the rest of the guns that
14 previously you had identified as being the ones in the stash
15 apartments during the course of working for your brother?

16 A. Yes.

17 Q. But you knew they were there in the apartments?

18 A. Yes.

19 Q. As well as these guns that were in your bedroom, you knew
20 those guns were there?

21 A. Yeah, the guns that was in my bedroom, yeah.

22 Q. You had access to those?

23 A. Yes.

24 Q. Okay. Now, Mr. Figueroa, at the time -- during the years
25 you worked for your brother, you said you were paid by him two

1 or three hundred dollars to work the table?

2 A. Yes.

3 Q. And you were also working in different factories?

4 A. Yes.

5 Q. How much were you getting paid when you worked in a
6 factory?

7 A. Minimum wage.

8 Q. All right. So you worked minimum wage jobs in factories as
9 well as were paid a few hundred dollars for working the table
10 for your brother?

11 A. Yeah, and selling my brother houses too.

12 Q. Doing what?

13 A. Selling my -- selling my brother's houses, doing
14 construction on his houses.

15 Q. Doing some construction work on your brother's houses?

16 A. Yes.

17 Q. Did you own 292 Barrington?

18 A. No.

19 Q. Did you own any house?

20 A. No.

21 Q. Didn't have any assets?

22 A. What you mean?

23 Q. Okay. What kind of cars did your brother drive?

24 A. My brother got a Mercedes Benz, he got a Lexus, he got a
25 GMC truck.

1 Q. The drugs that were inside 292 Barrington, the drugs in
2 that Home Depot bucket, whose drugs were those?

3 A. That's my brother Javi's drugs.

4 Q. All right. I'm going to show you Government's Exhibit 293.
5 Do you see what's shown in Government's 293?

6 A. Yes.

7 Q. What's shown in Government's 293?

8 A. That's a Pamper box with some money in it.

9 Q. Do you know where that was? Where that was found, that
10 Pampers box with money?

11 A. In the closet.

12 Q. Were you aware that that was there at the time of the
13 search warrant?

14 A. No.

15 Q. Were you aware there was \$230,000 cash in there?

16 A. I know there was some money. I saw the box before.

17 Q. Whose money is that?

18 A. That's my brother Javi money.

19 Q. So you were renting a house, sitting with Javi's drugs,
20 Javi's guns, and Javi's money; is that right?

21 A. Can you repeat the question?

22 Q. Yeah. On the day of your arrest --

23 A. Yes.

24 Q. -- when you were living at 292 Barrington, you had been
25 living -- paying rent in a house and staying there with Javi's

1 drugs, Javi's guns, and Javi's money?

2 A. Yes.

3 Q. And you had no assets of your own?

4 A. What do you mean having assets of my own?

5 Q. You didn't own your own house, for example?

6 A. No.

7 Q. Okay. I'm going to show you Government's Exhibit 304. Do
8 you see the box in the trunk of this photograph marked 304?

9 A. Yes.

10 Q. Are these the type of boxes that you would collect with
11 Leitscha and bring back to 292 Barrington when you worked for
12 your brother?

13 A. Yes.

14 Q. And what would be in these type of boxes from Puerto Rico?

15 A. Two or three kilos of cocaine with a lot of candy in it.

16 Q. All right. If we could go to 304? I'm sorry, 305. And

17 306. And 307. Are these what -- the contents of those boxes
18 from Puerto Rico that your brother opened up at 292

19 Barrington, are these typical of what you would see when those
20 boxes were open?

21 A. Yes.

22 Q. And do you recall how often were -- those boxes with two
23 or three kilos of cocaine in them, how often were they coming
24 from Puerto Rico to these locations in Rochester during the
25 time you worked for your brother?

1 A. I wasn't taking count, but they was coming -- I wasn't
2 taking count, but it was coming regular.

3 Q. It was coming regular, but you weren't taking count?

4 A. Yeah.

5 Q. Like once a month?

6 A. Weekly.

7 Q. Weekly? Boxes were coming weekly?

8 A. Yeah.

9 Q. Okay.

10 **MR. MARANGOLA:** At this time I have no further
11 questions. Thank you, Mr. Figueroa.

12 **THE COURT:** Mr. Verrillo. You may proceed.

13 **CROSS-EXAMINATION**

14 **BY MR. VERRILLO:**

15 Q. Mr. Figueroa, can you hear me okay?

16 A. Yes.

17 Q. Okay. You had testified about your manslaughter
18 conviction. Do you recall that?

19 A. Yes.

20 Q. And how much time did you serve on that manslaughter
21 conviction?

22 A. 21 or 22 years.

23 Q. Okay. And you had testified that you came to New Jersey
24 from Puerto Rico because you were getting into trouble?

25 A. Yes.

1 Q. And what did you mean by that?

2 A. Getting into trouble by cutting class and stuff like that.

3 Q. Okay. And in this case you've pled guilty to distribution
4 of drugs and possession of a firearm; is that right?

5 A. Can you rephrase that question, please?

6 Q. In this case we're talking about you've pleaded guilty to
7 distribution of drugs and possession of a firearm; is that
8 right?

9 A. Yes.

10 Q. And you're aware of the potential penalties associated
11 with that plea?

12 A. Yes, some, yes.

13 Q. Okay. And you know that you could be sentenced up to life;
14 is that right?

15 A. Yes.

16 Q. And do you know what your sentencing range is?

17 A. Max I think is 20 something.

18 Q. Okay. Was your sentencing range 248 to 295 months?

19 A. I think so.

20 Q. Okay. And you would like to serve less time than that,
21 correct?

22 A. Yes.

23 Q. And you're testifying in this case with hope of getting
24 less time, right?

25 A. Yes.

1 Q. Okay. And how old are you?

2 A. 46 years old.

3 Q. And have you, on behalf of the Government, have you
4 testified previously in this case?

5 A. What did you mean this case or --

6 Q. Well, in this case -- in this case, have you testified in
7 your brother's case?

8 A. I testified in my brother's trial.

9 Q. And testified at the grand jury as well?

10 A. Yes.

11 Q. And how many times -- how many days have you testified in
12 this case?

13 A. In this -- oh, my brother's case?

14 Q. Yeah.

15 A. In my brother's trial?

16 Q. Yes.

17 A. Like six days.

18 Q. And you testified in the grand jury, correct?

19 A. Yes.

20 Q. Okay. And since -- when were you arrested in this case?

21 A. January 29, 2018.

22 Q. And have you been in custody since then?

23 A. Yes.

24 Q. And so you've been in jail, correct?

25 A. Yes.

1 Q. And what is a typical day like in jail for you?

2 MR. MARANGOLA: Objection, Judge, relevance.

3 MR. VERRILLO: Goes to his circumstances.

4 THE COURT: Overruled. Go ahead.

5 THE WITNESS: What did you mean?

6 BY MR. VERRILLO:

7 Q. You're in the county jail right now?

8 A. Yes.

9 Q. What is a typical day at the county jail involve for you?

10 A. Typical day you go in there, you read books, you go to
11 church, you go to the yard, you talk to your peoples on the
12 phone, you watch TV, talk to some people.

13 Q. You've also thought about this case, right?

14 A. What did you mean?

15 Q. Think about what you're going to tell the jury in this
16 case, have you thought about that?

17 A. No.

18 Q. You don't think about that?

19 A. I don't. Just say the truth.

20 Q. Okay. And you indicated you testified in your brother's
21 case, correct?

22 A. Yes.

23 Q. And when's the last time you talked to your brother?

24 A. Talk to? I ain't talk to him for a long time.

25 Q. When is the last time you talked to Mr. Torres?

1 A. When was the last time I talked to Mr. Torres?

2 Q. Yeah.

3 A. When we was like -- 2016 when he left.

4 Q. Okay. You testified about a date that you went to a
5 pizzeria in Buffalo. Do you recall that?

6 A. Yes.

7 Q. And what pizzeria was that?

8 A. I don't know the name of the pizzeria. I'm not from
9 Buffalo.

10 Q. Do you know where you went on that day in Buffalo?

11 A. We went to Buffalo. We went to -- I was along for the
12 ride.

13 Q. You don't remember where you went in Buffalo?

14 A. No. We went to a pizzeria, but I don't know the name of
15 the place.

16 Q. Now, you testified in your direct testimony that you did
17 some work for your brother on his various real estate
18 properties?

19 A. Yes, on his houses, some construction.

20 Q. How many properties did he own?

21 A. Two houses in Burbank; he had one house on St. Paul; he
22 had 60 Malling; he had 75 Mead Street.

23 Q. That's five properties?

24 A. Yeah.

25 Q. Okay. And you had done some work maintaining them or

1 repairing them?

2 A. Yes, with him, yes.

3 Q. Did you see Xavier Torres doing that kind of work as well?

4 A. No, he don't.

5 Q. You didn't see him do any work on Carlos' properties?

6 A. No.

7 Q. Okay. Were you aware that Mr. Torres was paying rent to
8 your brother?

9 A. I don't know if he was paying rent or not.

10 Q. Okay. Okay. So your testimony is you don't know whether
11 he paid rent or not when he was at 6 Burbank?

12 A. Yes.

13 Q. Okay. Now, you recall testifying at the grand jury; is
14 that right? Do you remember that?

15 A. Yes.

16 Q. That was on January 17th of -- I'm sorry, January 17th of
17 2019?

18 A. Yes.

19 Q. And do you recall being asked questions related to whether
20 Mr. Torres paid rent to Javi?

21 A. I don't remember.

22 Q. Okay. But you do recall testifying at the grand jury,
23 correct?

24 A. Yes, I testified at grand jury, but I don't....

25 Q. And you testified under oath, right?

1 A. Yes.

2 Q. Okay.

3 **MR. VERRILLO:** Your Honor, I'd like to -- this is
4 not in evidence, I'd like to show the witness Exhibit 511,
5 which is some grand jury testimony.

6 **THE COURT:** Yes, you can show the witness.

7 **BY MR. VERRILLO:**

8 Q. Sir, do you see Exhibit 511 on your screen? Do you see
9 it?

10 A. No.

11 Q. Sir, do you see that exhibit?

12 A. Yes.

13 Q. Okay. And do you recall being asked the following
14 questions and giving the following answers? This is on page
15 49, line 7.

16 Question: Did he ever live at 6 Burbank Street?

17 Answer: Yes, he live in my brother's house. He
18 lived at 6 Burbank, my brother's house.

19 Question: Okay. So 6 Burbank Street is your
20 brother Javi's house?

21 Answer: Yeah, it's my brother Javi's house.

22 Question: And he rented that house from Javi at
23 some point?

24 Answer: Yeah, he used to live at that house before
25 the police -- a few years ago the police break down his house,

1 break down the door, he got arrested for a little bit of
2 drugs.

3 Do you recall those questions and those answers?

4 A. Yes.

5 Q. And were those answers truthful?

6 A. Yes, best of my memory, yes.

7 Q. Okay. Now, on your direct testimony you indicated you knew
8 Xavier as Pistolita; is that right?

9 A. Yes.

10 Q. Did you know him by any other names?

11 A. Pistolita, Canales.

12 Q. Okay. And you would agree that he was not known as Pepe,
13 right?

14 A. Yes.

15 Q. Okay. Who was Pepe?

16 A. Pepe was the guy used to work in Burbank. That was Yankee
17 best friend. They all go out together.

18 Q. And what did Pepe do? What kind of work did Pepe do?

19 A. Used to sell drugs.

20 Q. Okay. Where did he do that?

21 A. Used to do that on the house on Burbank that Pistolita
22 used to run.

23 Q. Okay. Okay. Did you ever see Pistolita with a gun?

24 A. The day he pistol whip Shorty.

25 Q. I'm sorry?

1 A. The day he pistol whip Shorty.

2 Q. Sir, do you recall being asked questions about whether or
3 not Pistolita had a gun when you testified at the grand jury?

4 A. Yes. And I apologized for that. I thought about it.

5 Q. I'm sorry, I'm just asking do you recall being asked that
6 question?

7 A. Yes.

8 Q. Okay. And I have marked Exhibit 511. I'd ask you to look
9 at 511 at this point. And page 50. Do you see that?

10 A. Yes.

11 Q. And you see that beginning with line 16, do you recall
12 this question and -- these questions and these answers.

13 Question: Did you ever hear about Pistolita having
14 a gun?

15 Answer: Yes.

16 Question: Did you ever see him with a gun?

17 Answer: Naw, I ain't see him with a gun.

18 Do you recall those questions and answers?

19 A. Yes.

20 Q. And were those answers truthful when you testified at the
21 grand jury?

22 A. That question I wasn't -- I wasn't thinking.

23 Q. Okay. So you're saying that answer was not truthful?

24 A. That answer was I wasn't thinking. I thought about it and
25 apologized, but I saw him with a gun.

1 Q. Okay. But I accurately read the questions and the answers
2 you gave at the grand jury, correct?

3 A. Yes.

4 Q. Okay. Now, you had testified that there was a certain
5 group of people that you referred to as fiends that would be
6 involved in this drug operation. Do you recall that?

7 A. Yes, drug users, yeah.

8 Q. Those would be drug users?

9 A. Yes.

10 Q. And would drug users be allowed to participate in other
11 parts of this operation?

12 A. What do you mean?

13 Q. Well, you have runners you talked about, right?

14 A. Yes.

15 Q. You have baggers, correct? People like that?

16 A. Yes.

17 Q. Would those people be drug users?

18 A. I don't understand the question. Can you --

19 Q. Okay. You said fiends are drug users that would be
20 lookouts, right?

21 A. Yes. Some of them be lookouts, some of them sell out of
22 the houses.

23 Q. They would get paid with a couple bags of drugs to do
24 their job, right?

25 A. Yes.

1 Q. Okay. How about runners? Would runners be drug users?

2 A. No.

3 Q. Okay. How about people that bagged, would baggers be drug
4 users?

5 A. Some of them, yes.

6 Q. Okay. And did Carlos express concerns about people who
7 were drug users acting as runners?

8 A. Not really.

9 Q. I'm sorry?

10 A. Not really.

11 Q. Okay. So he wasn't concerned about that.

12 A. What you mean concern about people using --

13 Q. Well, I believe you've indicated that Carlos was the boss,
14 correct?

15 A. Yes.

16 Q. And he was the one that made the directions about what
17 happened in this drug business, correct?

18 A. Yes.

19 Q. And did he ever express to you a concern that people who
20 were using drugs might not be relied upon in working in the
21 drug business?

22 A. The situation with Pistolita, he got mad.

23 Q. I'm sorry?

24 A. The situation with Pistolita, he got mad.

25 Q. Okay. All right, but I'm asking -- I'm asking

1 specifically about runners. Did he ever indicate to you that
2 he had concerns about runners being drug users?

3 A. I don't recall if he told me that, but he don't like it.

4 Q. Okay. How about the baggers? Did he have any concerns
5 that a bagger not be a drug user?

6 A. He don't want them to get high.

7 Q. He didn't want them to take the product, right?

8 A. What did you mean?

9 Q. If you're a drug user of heroin, for example, and you're a
10 bagger, you would agree you could be tempted to take the
11 drugs, right?

12 A. Yes.

13 Q. Or use the drugs, right?

14 A. Yes.

15 Q. Now, what was the role of Leitscha in this operation?

16 A. Leitscha.

17 Q. I'm sorry, however you pronounce it, yeah.

18 A. Leitscha, she was my brother's mistress. And she used to
19 call people from Puerto Rico and she used to track the boxes
20 that come from Puerto Rico; she used to get the phones and
21 pass them out to the runners.

22 Q. Okay.

23 A. Used to -- she used to bag up some dope and coke, bring
24 some heroin and coke to the block. She also -- my brother
25 give her the money to bail some people out if they get

1 arrested.

2 Q. Okay.

3 A. She used to pay the people that receive the boxes and talk
4 to them when the boxes was coming from Puerto Rico.

5 Q. Okay. Was one of her roles to keep records of the drug
6 operations?

7 A. Can I finish?

8 Q. I'm sorry, go ahead.

9 A. She used to rent the houses, put under her name because
10 she got a clean record, for my brother.

11 Q. Okay. Was one of her roles to keep records of the various
12 drug transactions?

13 A. Yes.

14 Q. And you've indicated you were working with your brother
15 from 2013 to 2018?

16 A. Yes.

17 Q. And did she keep these records throughout that time?

18 A. I don't think during the time -- I think she changed the
19 notebook.

20 Q. What I'm asking is between 2013 and 2018, was there always
21 someone keeping records of these drug transactions?

22 A. Yes, she was in charge of the money going in, money going
23 out.

24 Q. And do you know why she did that?

25 A. Yes.

1 Q. Why?

2 A. Because at the end of the day they got to collect all the
3 money and you got to see how much money going out and the
4 drugs for my brother.

5 Q. Okay. And you would agree she always had a note pad around
6 to keep records?

7 A. Yes.

8 Q. Okay. So there were sellers of the actual bags of drugs,
9 correct? People on the street would sell drugs, right?

10 A. From the houses.

11 Q. And how would they get paid?

12 A. They get paid percentage of what they sell.

13 Q. Okay. So if there were -- let's say during a week a
14 thousand nickel bags were sold, right? So five times 1,000 is
15 5,000, correct? How much did they get of each bag if you're a
16 seller?

17 A. I don't know. I don't -- I don't dictate that. My
18 brother dictate that, and the runner.

19 Q. I think you said they receive a percentage of that?

20 A. Yeah, they suppose to get paid, yeah.

21 Q. The runners, would they get a percentage of what was sold?

22 A. Yes, they get paid for what they're doing.

23 Q. I'm sorry?

24 A. They get paid for what they're doing.

25 Q. Okay. And Leitscha would keep the records of who got paid

1 and how much?

2 A. Lei, yes.

3 Q. Okay. And when you would do the bagging of these drugs,
4 would there be count of how many bags were created on that
5 particular session?

6 A. How many 62s and -- yes.

7 Q. So who would keep those records?

8 A. Lei keep the records in the notebook.

9 Q. They would go out and be distributed, correct?

10 A. Yes.

11 Q. And then she would verify that the money came back
12 sufficient to cover the number of items that went out?

13 A. Yes.

14 Q. Okay. And your role was -- strike that.

15 How would you get paid?

16 A. I get paid when I was -- when I was sitting at the table.

17 Q. Okay. So if you were packing -- if you were involved in
18 the bagging, once you finished bagging you would receive some
19 money?

20 A. Yes, 2, \$300.

21 Q. Okay. Okay. Now, you had testified about various
22 shootings that occurred in this case, correct?

23 A. Yes.

24 Q. And you would acknowledge you were not present during any
25 of these shootings, right?

1 A. Yes.

2 Q. Okay. Now, were you familiar with a person by the name of
3 Domi or Domi?

4 A. Domi. Domi is Dominican.

5 Q. Do you know a person with that --

6 A. I know a bunch of people named Domi. Mean Dominican
7 person.

8 Q. Okay. Was he someone that lived in the area of 6 Burbank
9 Street?

10 A. I don't know.

11 Q. Okay. Did you ever discuss any of these shootings with
12 other people associated with this operation?

13 A. Not at all, no.

14 Q. Okay. Well, for example, with the Gargola shooting did you
15 discuss that with anybody else?

16 A. No. My brother when they was talking about it.

17 Q. Okay. Did you ever discuss the Gargola shooting with Axel
18 Camacho?

19 A. No.

20 Q. Okay. Now, with respect to the Leo Street shooting, do you
21 know whether Flaco was present when that occurred?

22 A. No.

23 Q. Okay. So you signed -- do you recall when you signed your
24 plea agreement with the Government?

25 A. 2019.

1 Q. Okay. And since 2019 how many times have you met with the
2 Government regarding this case?

3 A. I wasn't counting, but more than ten times.

4 Q. I'm sorry?

5 A. This case or my brother case?

6 Q. Let's start with your brother's case.

7 A. My brother's case more than ten times, but I wasn't
8 counting.

9 Q. Okay. And then how about for this particular case, how
10 many times have you met with the Government?

11 A. Like two, two or three.

12 Q. Okay. And where would these meetings take place?

13 A. In Marangola office.

14 Q. Okay. And how long would these sessions ordinarily take?

15 A. Which one you talking about?

16 Q. I'm sorry?

17 A. Which one are you talking about?

18 Q. Let's talk about the meetings. You said you had more than
19 ten meetings regarding your brother's case. How long would
20 each take?

21 A. It took a while because it was a lot of phone calls, it
22 was a lot of people to identify, pole cams and stuff to -- for
23 evidence to identify.

24 Q. Okay. So how many hours would that have been?

25 A. A few hours. I don't know.

1 Q. A few hours per session?

2 A. Yes.

3 Q. Okay. And in this case you've had a couple meetings with
4 the Government related to your testimony, correct?

5 A. Yes.

6 Q. And how long have those sessions been?

7 A. A few hours.

8 Q. A few hours each?

9 A. Yes.

10 Q. And when was the last time you met with the Government
11 prior to testifying today?

12 A. Yesterday.

13 Q. Okay. And who was present during that meeting?

14 A. Marangola and Officer Briganti.

15 Q. Okay. You had testified, sir, about seeing some vehicles
16 that were operated by Mr. Torres. Do you recall that?

17 A. Yes.

18 Q. Answers to those questions?

19 A. Yes.

20 Q. You referred to a Ford Explorer as one of them?

21 A. Yes.

22 Q. When did you see Mr. Torres drive a Ford Explorer?

23 A. When he was on Burbank. That was my brother's truck.

24 Q. Okay. I'm asking what time period? When did you see him
25 drive that?

1 A. 2015 he was on Burbank. That was my brother's truck. He
2 was using my brother's truck.

3 Q. Okay. You say 2015. Was it for the entire year or a
4 specific time period?

5 A. Use it for a while. I wasn't paying attention to that.

6 Q. You've also testified about a 300 Chrysler. Do you recall
7 that?

8 A. Yes.

9 Q. And what time period did you see Mr. Torres drive the 300
10 Chrysler?

11 A. I saw him drive it for a little bit.

12 Q. Okay. What time -- when I ask time period, if you can give
13 a specific month or period?

14 A. I don't remember a specific month, but I saw him drive it.
15 Fiend, a white guy.

16 Q. I'm sorry, he did what?

17 A. The 300 Chrysler belong to a fiend, it was a white guy who
18 use drugs, used to let him use it. He was giving him drugs
19 for it.

20 Q. Okay. And you also referenced a red Mustang. Do you
21 recall that?

22 A. Yes.

23 Q. And when did you see Mr. Torres drive a red Mustang?

24 A. In the periods of time he was coming on Burbank.

25 Q. Okay. What specific time period?

1 A. I can't --

2 Q. Would that have been in 2015?

3 A. No. Later, but I can't really tell you the time.

4 Q. Okay. And how many times did you see him drive the red
5 Mustang?

6 A. A few times.

7 Q. A few times?

8 A. Yes.

9 Q. Okay. And you also referenced a Honda Accord. Do you
10 recall that?

11 A. Yes.

12 Q. What time period did you see him operating a Honda Accord?

13 A. The same. Not long.

14 Q. Okay. All right. And when you say the same, is that a
15 specific year or can you give anything specific?

16 A. It was different -- it was different car, different time.
17 I wasn't keeping track of it. But I saw him driving them
18 cars.

19 Q. Okay. Now, you indicated that you talked to or heard
20 Mr. Torres make comments about the Flaco shooting; is that
21 right?

22 A. Yes.

23 Q. And do you know where Flaco was residing in June of 2016?

24 A. What did you mean?

25 Q. Where did he live?

1 A. I don't know where he live.

2 Q. Okay. Well, did he live in Buffalo or Rochester, do you
3 know?

4 A. He was in Rochester.

5 Q. Okay. So he lived in Rochester?

6 A. Yes, Flaco, yes.

7 Q. And how did Flaco end up in Buffalo?

8 A. Pistolita and Vic took him down there.

9 Q. Okay. So you're saying they drove him to Buffalo?

10 A. Yeah, they drove him to Buffalo.

11 Q. Okay. And you've testified with respect to the guns at
12 Barrington, that those were guns owned by your brother,
13 correct?

14 A. That was what?

15 Q. The guns at Barrington where you lived?

16 A. Yes.

17 Q. Those were owned by your brother?

18 A. Yes.

19 Q. Okay. And you also testified that you paid rent at
20 Barrington; is that right?

21 A. Yes, I was giving money to Lei.

22 Q. Okay. And did you have a lease with your brother for
23 Barrington?

24 A. No, that was not my brother's house.

25 Q. Okay. Who's house was it?

1 A. That was somebody else's house. He don't own that house.
2 Lei was renting the house for him, so I was giving some money
3 to Lei.

4 Q. So the Barrington property was being rented, correct?

5 A. Yes, by Lei.

6 Q. Okay. And you were contributing towards the rent?

7 A. Yes, giving her the money.

8 Q. Okay. All right. You were asked some questions about Mark
9 Young. Do you recall that? Attorney Mark Young?

10 A. Yes.

11 Q. Okay. And with respect to the attorney, that attorney
12 representing Mr. Torres, did you ever see any payment made to
13 the attorney on Mr. Torres' behalf?

14 A. See him personally?

15 Q. Yes.

16 A. No.

17 Q. Okay. I believe you referred to Mr. Torres in your direct
18 testimony as being a muscle or being something to that effect.
19 Do you recall that?

20 A. Yes.

21 Q. Okay. Do you know how tall Mr. Torres is?

22 A. No.

23 Q. Okay. Would you say he's a short person?

24 A. Yes.

25 Q. Okay. And as far as his weight, does his weight look

1 similar to what he was when you saw him in 2015?

2 A. He look -- to me he look the same.

3 Q. Okay. And you testified you picked up guns in Buffalo. Do
4 you recall that testimony?

5 A. Yes, my brother picked up some gun in Buffalo.

6 Q. You didn't see guns when you were up there, correct?

7 A. He told me he was picking up some guns.

8 Q. You said there was a bag?

9 A. A duffle bag that they was carrying out.

10 Q. You don't know what was in the bag?

11 A. My brother told me it was guns in the bag, so we got some
12 guns.

13 Q. I'm asking you did you see the bag itself?

14 A. I didn't open the bag myself, no, but I saw the bag when
15 they was carrying it to the truck.

16 Q. Sir, there was some testimony that you were -- after the
17 robbery at -- was it Culver? The Culver apartment that you
18 were looking for Axel?

19 A. Yes.

20 Q. Why were you looking for Axel?

21 A. Because my brother told me to go look for him.

22 Q. Okay. And what was your plan as it related to your dealing
23 with Axel? What were you planning to do when you see Axel?

24 A. My brother say go get Axel, go get Obed to go get Axel,
25 see where he was at.

1 Q. Okay. During the course of the period from 2013 to 2018,
2 did you ever commit any acts of violence towards anyone?

3 A. What did you mean act of violence?

4 Q. Did you beat anybody up or hurt anybody?

5 A. No. I got in a few fights.

6 Q. All right. During the period of 2015 how often would you
7 see Mr. Torres on Burbank?

8 A. He was living there. I see him almost every day.

9 Q. Okay. And did he have -- did he have a drug problem?

10 A. I don't know if he had a drug problem.

11 Q. You don't know whether he used drugs or not?

12 A. I didn't see him stoned. That was a rumor that he was
13 doing dope, but I ain't never seen him sniffing dope.

14 **MR. VERRILLO:** Your Honor, if I could just have one
15 moment?

16 **THE COURT:** Sure.

17 **BY MR. VERRILLO:**

18 Q. Mr. Figueroa, you had testified that you had picked up
19 Mr. Torres and brought him to Rochester at Burbank Street?

20 A. What?

21 Q. Did you bring him -- were you involved in bringing him
22 to -- to Rochester in 2015?

23 A. Oh, Pistolita?

24 Q. Yeah.

25 A. When we moved him, yes.

1 Q. Yes.

2 A. Yes.

3 Q. Okay. And you also testified that he lived at Liberty
4 Pole?

5 A. Yes, at one time, yes.

6 Q. And when was that?

7 A. That was right after my brother was gonna move him to
8 Burbank, they got -- he was having some problem with his girl,
9 he move him, let him stay in the apartment. He was renting
10 the apartment.

11 Q. When was that in 2015?

12 A. I can't -- it was 2015, but I can't recall.

13 **MR. VERRILLO:** I have nothing further.

14 **MR. MARANGOLA:** Your Honor, at this time I would
15 offer Government's Exhibit -- I believe it's 342, the plea
16 agreement.

17 **THE COURT:** Any objection?

18 **MR. VERRILLO:** Your Honor, if we could have a
19 sidebar on this issue?

20 **THE COURT:** Sure.

21 (**WHEREUPON**, a discussion was held at side bar out
22 of the hearing of the jury.)

23 **MR. VERRILLO:** I think the issue would be
24 cooperation language. I don't object to that, but I would
25 object to the other language in the agreement coming in.

1 **THE COURT:** Mr. Marangola?

2 **MR. MARANGOLA:** I guess I'm not sure what language
3 he's objecting to.

4 **MR. VERRILLO:** Well, the cooperation section is 6A,
5 22(a) through 22(m).

6 **MR. MARANGOLA:** Judge, maybe this is what Mr.
7 Verrillo is getting at: We wouldn't offer the factual basis of
8 the plea agreement. So when we offer the plea agreement, that
9 would be redacted as to the factual basis that identifies
10 co-conspirators and that nature.

11 But the remainder of the plea agreement we would
12 offer both the charges he pled to, the sentence, the
13 cooperation provision, the truth telling provision, the breach
14 provisions, all of that is relevant to the defendant -- or to
15 the witness's credibility, and especially now that he's been
16 attacked on cross-examination. I believe under Second Circuit
17 law it's fair to be admissible at this point.

18 **THE COURT:** Mr. Verrillo?

19 **MR. VERRILLO:** Yes, okay, I would agree to that.

20 **THE COURT:** Okay, so Exhibit 342 will be received
21 subject to the redaction of the factual basis. Okay? Thank
22 you.

23 (WHEREUPON, side bar discussion concluded.)

24 (WHEREUPON, Government Exhibit 342 was received
25 into evidence).

1 **THE COURT:** Exhibit 342 is received subject to some
2 redactions. Thank you.

3 **REDIRECT EXAMINATION**

4 **BY MR. MARANGOLA:**

5 Q. Mr. Figueroa, do you have Government's 342 in front of
6 you?

7 A. Yes.

8 Q. All right. Mr. Figueroa, you see the first page of
9 Government's 342, that's your plea agreement; is that correct?

10 A. Yes.

11 Q. And does that list the charges that you pled guilty to?

12 A. Yes.

13 **MR. MARANGOLA:** Judge, can we -- can I show the
14 witness and show the jury the first page of Government's 342?
15 This is not the portion that we had discussed would be
16 redacted.

17 **THE COURT:** Yes.

18 **MR. MARANGOLA:** Thank you.

19 **BY MR. MARANGOLA:**

20 Q. Mr. Figueroa, do you see that first page of Government's
21 342?

22 A. Yes.

23 Q. All right. And in that first page it lists the charges
24 that you pled guilty to; is that right?

25 A. Yes.

1 Q. Now, Mr. Verrillo asked you if you pled guilty to
2 distribution and possession of firearms, right?

3 A. Yes.

4 Q. And you said yes?

5 A. Yes.

6 Q. Do you remember that?

7 A. Yes.

8 Q. And you pled guilty, in fact, not to distribution, but to
9 conspiracy to possess with intent to distribute and to
10 distribute 5 kilograms or more of cocaine; is that right?

11 A. Yes.

12 Q. All right. Were you lying when you said yes?

13 A. No. I wasn't thinking.

14 Q. Okay. Now, Mr. Verrillo asked you if you knew the
15 defendant as Pistolita, and you knew the defendant as
16 Pistolita; is that right?

17 A. Yes.

18 Q. And were you aware of another individual that you referred
19 to as Pepe?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. Now, do you know what other people referred to the
24 defendant as?

25 A. No. I know him as Pistolita.

1 Q. Do you know if other individuals referred to the defendant
2 as something in addition to Pistolita?

3 A. No.

4 Q. Okay. Mr. Figueroa, the defendant -- I'm sorry, Mr.
5 Verrillo asked you about Leitscha writing records of the drug
6 transactions. Do you recall that?

7 A. Yes.

8 Q. Can you describe what you actually saw Leitscha do in
9 terms of notations of the drug business?

10 A. Yes. What Leitscha do is she got a note pad and when we
11 gonna do the 62s, she write it down how many packages come
12 out; how many packages going to go to the block; how much
13 money is supposed to come in. That's what she take notes of,
14 the names and everything, who doing what.

15 Q. All right. Did Leitscha write down the salaries of the
16 drug sellers who were working in the house?

17 A. No.

18 Q. That wouldn't be something she would keep record of?

19 A. No.

20 Q. Did she write down the salaries of the runners in that
21 notebook?

22 A. No.

23 Q. Did she store, like catalogue these records for each of
24 the years that this drug operation was ongoing?

25 **MR. VERRILLO:** Objection, lack of foundation.

1 **THE COURT:** Overruled. If he knows.

2 **THE WITNESS:** No.

3 **BY MR. MARANGOLA:**

4 Q. All right. And she would keep track of the most recent
5 transactions; is that right? In those notebooks?

6 A. Yes.

7 Q. And when I say "transactions," what type of transactions
8 was she keeping record of?

9 A. She keeping record of the block, the people in the block;
10 how much money, how much coke and dope is going out, how much
11 money supposed to bring back; and how much -- the work -- we
12 work at the table, she write down how many 62 is done, how
13 much stuff we bagged up.

14 Q. So she's keeping track of the amount of drugs that are
15 being sold; is that right?

16 A. Yes.

17 Q. And is she keeping records of kilo transactions in those
18 notebooks?

19 A. Yes.

20 Q. Okay. And inside 292 Barrington, did you see the drug
21 ledger or ledgers that she kept?

22 A. Yes.

23 Q. And were they from transactions that were from three or
24 four years earlier?

25 A. No.

1 Q. What were they from? What transactions were they from?

2 A. From '17 to '18.

3 Q. From 2017 and '18?

4 A. Yes.

5 Q. And Mr. Verrillo asked you how much the workers in the
6 house got paid. Do you recall that?

7 A. Yes.

8 Q. Were you ever a worker in a house?

9 A. No.

10 Q. Did you ever pay a worker in a house?

11 A. No.

12 Q. So you were not involved in that?

13 A. No.

14 Q. Mr. Verrillo asked you if you saw the defendant act as
15 muscle.

16 A. Yes.

17 Q. You testified to one of the occasions. How did you --
18 what were some of the things you observed the defendant do
19 while he was the runner on the block acting as muscle?

20 A. He pistol whip Shorty.

21 Q. All right. What else did you see him do?

22 A. Like argue with people.

23 Q. I'm sorry, what did you say?

24 A. Argue with people.

25 Q. Argue with people?

1 A. Yeah.

2 Q. All right. And that was how he ran the block?

3 A. Yes.

4 Q. All right. Mr. Figueroa, defense counsel asked you about
5 meetings with the Government. Do you recall that?

6 A. Yes.

7 Q. And on the occasions that you met with myself or
8 Investigator Briganti, what's the one thing that we told you
9 we wanted?

10 A. To tell the truth.

11 Q. What do you understand your obligation under the plea
12 agreement here marked Government's 342, what do you understand
13 to be your obligation?

14 A. To tell the truth.

15 Q. What are you hoping will happen as a result of you telling
16 the truth?

17 A. I hope to get some less time.

18 Q. You hope to get what?

19 A. Some less time.

20 Q. Less of a jail sentence?

21 A. Yes.

22 Q. And who is going to sentence you?

23 A. The judge.

24 Q. All right. Can you tell the jury what happens to you if
25 you don't tell the truth pursuant to the plea agreement?

1 A. Yes. If I don't tell the truth, he not going to ask the
2 judge to lower my sentence, I get charged with perjury, and I
3 get max of a sentence.

4 Q. When you say he's not gonna ask, you're referring to me?

5 A. Yes.

6 Q. Meaning I'm not going to ask the judge to lower your
7 sentence --

8 A. Yes.

9 Q. -- if you lie?

10 A. Yes.

11 Q. And you said you can also be charged with perjury?

12 A. Yes.

13 Q. And you could get up to life in prison based on what you
14 pled guilty to; is that right?

15 A. Yes.

16 Q. Okay. Did you tell the truth in the meetings that you had
17 with the Government?

18 **MR. VERRILLO:** Objection.

19 **THE COURT:** Overruled. Go ahead.

20 **THE WITNESS:** Yes.

21 **BY MR. MARANGOLA:**

22 Q. And did you tell the truth to this jury?

23 A. Yes.

24 **MR. MARANGOLA:** Thank you, Mr. Figueroa.

25 **THE COURT:** Anything further?

1 **MR. VERRILLO:** No further questions.

2 **THE COURT:** Thank you. You may step down.

3 (**WHEREUPON**, the witness was excused).

4 **THE COURT:** Ladies and gentlemen, we appreciate your
5 cooperation going a little later today so we can finish up our
6 witness. We will stand in recess until tomorrow morning at
7 9:30.

8 In the meantime, it's important you not discuss the
9 matter or allow anybody to discuss the matter with you. At
10 this time the jury may step down until 9:30 tomorrow morning.
11 Have a good night.

12 (**WHEREUPON**, the jury was excused).

13 **THE COURT:** Anything before we break?

14 **MR. MARANGOLA:** Judge, we actually are moving a
15 little bit ahead of where we thought we would be today, and we
16 have a couple a police witnesses that we intended to put on
17 after Mr. Figueroa here.

18 And then -- but we don't have Besayda as our
19 interpreter who is for our Spanish speaking witnesses for
20 trial. She's not going to be available until Monday. She had
21 a -- in any event, she's not available until Monday.

22 So we're going to see if -- what we can do about
23 filling -- I think we might be in a position of ending a
24 little bit early tomorrow. I apologize for that.

25 **THE COURT:** I don't think anyone's going to argue.

1 **MR. MARANGOLA:** Okay, thank you. I just wanted to
2 let the Court know.

3 **THE COURT:** Okay, thank you. We'll take a recess.

4 (**WHEREUPON**, proceedings adjourned at 1:59 p.m.)

5 * * *

6 **CERTIFICATE OF REPORTER**

7
8 In accordance with 28, U.S.C., 753(b), I certify that
9 these original notes are a true and correct record of
10 proceedings in the United States District Court for the
11 Western District of New York before the Honorable Frank P.
12 Geraci, Jr. on October 21st, 2021.

13
14 S/ Christi A. Macri

15 Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)
16 Official Court Reporter
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